

AN ACT

To amend sections 3314.10, 3316.07, 3319.02, 3319.14, 3319.18, and 5705.412 and to enact section 3319.171 of the Revised Code to make certain changes concerning the termination, suspension, and evaluation of certain administrative personnel of school districts and educational service centers and to revise the requirements for school district certificates of available resources.

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

SECTION 1. That sections 3314.10, 3316.07, 3319.02, 3319.14, 3319.18, and 5705.412 be amended and section 3319.171 of the Revised Code be enacted to read as follows:

Sec. 3314.10. (A)(1) The governing authority of any community school established under this chapter may employ teachers and nonteaching employees necessary to carry out its mission and fulfill its contract.

(2) Except as provided under division (A)(3) of this section, employees hired under this section may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section shall be considered an appropriate unit. As applicable, employment under this section is subject to either Chapter 3307. or 3309. of the Revised Code.

(3) If a school is created by converting all or part of an existing public school rather than by establishment of a new start-up school, at the time of conversion, the employees of the community school shall remain part of any collective bargaining unit in which they were included immediately prior to the conversion and shall remain subject to any collective bargaining agreement for that unit in effect on the first day of July of the year in which the community school initially begins operation and shall be subject to any subsequent collective bargaining agreement for that unit, unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees. Any new employees of the community school shall also be

included in the unit to which they would have been assigned had not the conversion taken place and shall be subject to the collective bargaining agreement for that unit unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees.

Notwithstanding division (B) of section 4117.01 of the Revised Code, the board of education of a school district and not the governing authority of a community school shall be regarded, for purposes of Chapter 4117. of the Revised Code, as the "public employer" of the employees of a conversion community school subject to a collective bargaining agreement pursuant to division (A)(3) of this section unless a petition is certified under division (A)(6) of this section with regard to those employees. Only on and after the effective date of a petition certified as sufficient under division (A)(6) of this section shall division (A)(2) of this section apply to those employees of that community school and only on and after the effective date of that petition shall Chapter 4117. of the Revised Code apply to the governing authority of that community school with regard to those employees.

(4) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division and shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, if a majority of the employees of that community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement and be designated by the state employment relations board as a new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(b) That the employee organization certified as the exclusive representative of the employees of the bargaining unit from which the employees are to be removed be certified as the exclusive representative of the new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(5) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code

and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division, shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, and shall cease to be represented by any exclusive representative of that collective bargaining unit, if a majority of the employees of the community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement;

(b) That any employee organization certified as the exclusive representative of the employees of that bargaining unit be decertified as the exclusive representative of the employees of the community school who are subject to that agreement;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(6) Upon receipt of a petition under division (A)(4) or (5) of this section, the state employment relations board shall check the sufficiency of the signatures on the petition. If the signatures are found sufficient, the board shall certify the sufficiency of the petition and so notify the parties involved, including the board of education, the governing authority of the community school, and any exclusive representative of the bargaining unit. The changes requested in a certified petition shall take effect on the first day of the month immediately following the date on which the sufficiency of the petition is certified under division (A)(6) of this section.

(B)(1) The board of education of each city, local, and exempted village school district sponsoring a community school and the governing board of each educational service center in which a community school is located shall adopt a policy that provides a leave of absence of at least three years to each teacher or nonteaching employee of the district or service center who is employed by a conversion or new start-up community school sponsored by the district or located in the district or center for the period during which the teacher or employee is continuously employed by the community school. The policy shall also provide that any teacher or nonteaching employee may return to employment by the district or service center if the teacher or

employee leaves or is discharged from employment with the community school for any reason, unless, in the case of a teacher, the board of the district or service center determines that the teacher was discharged for a reason for which the board would have sought to discharge the teacher under section 3319.16 of the Revised Code, in which case the board may proceed to discharge the teacher utilizing the procedures of that section. Upon termination of such a leave of absence, any seniority that is applicable to the person shall be calculated to include all of the following: all employment by the district or service center prior to the leave of absence; all employment by the community school during the leave of absence; and all employment by the district or service center after the leave of absence. The policy shall also provide that if any teacher holding valid certification returns to employment by the district or service center upon termination of such a leave of absence, the teacher shall be restored to the previous position and salary or to a position and salary similar thereto. If, as a result of teachers returning to employment upon termination of such leaves of absence, a school district or educational service center reduces the number of teachers it employs, it shall make such reductions in accordance with section 3319.17 or, if applicable, 3319.171 of the Revised Code.

Unless a collective bargaining agreement providing otherwise is in effect for an employee of a conversion community school pursuant to division (A)(3) of this section, an employee on a leave of absence pursuant to this division shall remain eligible for any benefits that are in addition to benefits under Chapter 3307. or 3309. of the Revised Code provided by the district or service center to its employees provided the employee pays the entire cost associated with such benefits, except that personal leave and vacation leave cannot be accrued for use as an employee of a school district or service center while in the employ of a community school unless the district or service center board adopts a policy expressly permitting this accrual.

(2) While on a leave of absence pursuant to division (B)(1) of this section, a conversion community school shall permit a teacher to use sick leave accrued while in the employ of the school district from which the leave of absence was taken and prior to commencing such leave. If a teacher who is on such a leave of absence uses sick leave so accrued, the cost of any salary paid by the community school to the teacher for that time shall be reported to the department of education. The cost of employing a substitute teacher for that time shall be paid by the community school. The department of education shall add amounts to the payments made to a community school under this chapter as necessary to cover the cost of salary reported by

a community school as paid to a teacher using sick leave so accrued pursuant to this section. The department shall subtract the amounts of any payments made to community schools under this division from payments made to such sponsoring school district under Chapter 3317. of the Revised Code.

A school district providing a leave of absence and employee benefits to a person pursuant to this division is not liable for any action of that person while the person is on such leave and employed by a community school.

Sec. 3316.07. (A) A school district financial planning and supervision commission has the following powers, duties, and functions:

(1) To review or to assume responsibility for the development of all tax budgets, tax levy and bond and note resolutions, appropriation measures, and certificates of estimated resources of the school district in order to ensure that such are consistent with the financial recovery plan and a balanced appropriation budget for the current fiscal year, and to request and review any supporting information upon which the financial recovery plan and balanced appropriation budget may be developed and based, and to determine whether revenue estimates and estimates of expenditures and appropriations will result in a balanced budget;

(2) To inspect and secure copies of any document, resolution, or instrument pertaining to the effective financial accounting and reporting system, debt obligations, debt limits, financial recovery plan, balanced appropriation budgets, appropriation measures, report of audit, statement or invoice, or other worksheet or record of the school district;

(3) To inspect and secure copies of any document, instrument, certification, records of proceedings, or other worksheet or records of the county budget commission, county auditor, or other official or employee of the school district or of any other political subdivision or agency of government of the state;

(4) To review, revise, and approve determinations and certifications affecting the school district made by the county budget commission or county auditor pursuant to Chapter 5705. of the Revised Code to ensure that such determinations and certifications are consistent with the laws of the state;

(5) To bring civil actions, including mandamus, to enforce this chapter;

(6) After consultation with the officials of the school district and the auditor of state, to implement or require implementation of any necessary or appropriate steps to bring the books of account, accounting systems, and financial procedures and reports of the school district into compliance with requirements prescribed by the auditor of state, and to assume responsibility

for achieving such compliance and for making any desirable modifications and supplementary systems and procedures pertinent to the school district;

(7) To assist or provide assistance to the school district or to assume the total responsibility for the structuring or the terms of, and the placement for sale of, debt obligations of the school district;

(8) To perform all other powers, duties, and functions as provided under this chapter;

(9) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the exercise of its powers under this chapter;

(10) To consult with officials of the school district and make recommendations or assume the responsibility for implementing cost reductions and revenue increases to achieve balanced budgets and carry out the financial recovery plan in accordance with this chapter;

(11) To make reductions in force to bring the school district's budget into balance, notwithstanding section 3319.081 and divisions (A) and (B) of section 3319.17 of the Revised Code, notwithstanding any provision of a policy adopted under section 3319.171 of the Revised Code, and notwithstanding any provision to the contrary in section 4117.08 or 4117.10 of the Revised Code or in any collective bargaining agreement entered into on or after ~~the effective date of this section~~ November 21, 1997.

In making reductions in force, the commission shall first consider reasonable reductions among the administrative and non-teaching employees of the school district giving due regard to ensuring the district's ability to maintain the personnel, programs, and services essential to the provision of an adequate educational program.

In making these reductions in non-teaching employees in districts where Chapter 124. of the Revised Code controls such reductions, the reductions shall be made in accordance with sections 124.321 to 124.327 of the Revised Code. In making these reductions in non-teaching employees in districts where Chapter 124. of the Revised Code does not control these reductions, within each category of non-teaching employees, the commission shall give preference to those employees with continuing contracts or non-probationary status and who have greater seniority.

If revenues and expenditures cannot be balanced by reasonable reductions in administrative and non-teaching employees, the commission may also make reasonable reductions in the number of teaching contracts. If the commission finds it necessary to suspend teaching contracts, it shall suspend them in accordance with division (C) of section 3319.17 of the Revised Code but shall consider a reduction in non-classroom teachers

e classroom teachers.

(B) During the fiscal emergency period, the commission shall, in addition to other powers:

(1) With respect to the appropriation measure in effect at the commencement of the fiscal emergency period of the school district if that period commenced more than three months prior to the end of the current fiscal year, and otherwise with respect to the appropriation measure for the next fiscal year:

(a) Review and determine the adequacy of all revenues to meet all expenditures for such fiscal year;

(b) Review and determine the extent of any deficiency of revenues to meet such expenditures;

(c) Require the school district board or superintendent to provide justification documents to substantiate, to the extent and in the manner considered necessary, any item of revenue or appropriation;

(d) Not later than sixty days after taking office or after receiving the appropriation measure for the next fiscal year, issue a public report regarding its review pursuant to division (B)(1) of this section.

(2) Require the school district board, by resolution, to establish monthly levels of expenditures and encumbrances consistent with the financial recovery plan and the commission's review pursuant to divisions (B)(1)(a) and (b) of this section, or establish such levels itself. If the commission permits the district board to make expenditures, the commission shall monitor the monthly levels of expenditures and encumbrances and require justification documents to substantiate any departure from any approved level. No district board shall make any expenditure apart from the approved level without the written approval of the commission.

(C) In making any determination pursuant to division (B) of this section, the commission may rely on any information considered in its judgment reliable or material and shall not be restricted by any tax budget or certificate or any other document the school district may have adopted or received from any other governmental agency.

(D) County, state, and school district officers or employees shall assist the commission diligently and promptly in the prosecution of its duties, including the furnishing of any materials, including justification documents, required.

(E) Annually on or before the first day of April during the fiscal emergency period, the commission shall make reports and recommendations to the speaker of the house of representatives and the president of the senate concerning progress of the school district to eliminate fiscal emergency

conditions, failures of the school district to comply with this chapter, and recommendations for further actions to attain the objectives of this chapter, including any legislative action needed to make provisions of law more effective for their purposes, or to enhance revenue raising or financing capabilities of school districts. The commission may make such interim reports as it considers appropriate for such purposes and shall make such additional reports as may be requested by either house of the general assembly.

Sec. 3319.02. (A)(1) As used in this section, "other administrator" means either of the following:

(a) Except as provided in division (A)(2) of this section, any employee in a position for which a board of education requires a license designated by rule of the department of education for being an administrator issued under section 3319.22 of the Revised Code, including a professional pupil services employee or administrative specialist or an equivalent of either one who is not employed as a school counselor and spends less than fifty per cent of the time employed teaching or working with students;

(b) Any nonlicensed employee whose job duties enable such employee to be considered as either a "supervisor" or a "management level employee," as defined in section 4117.01 of the Revised Code.

(2) As used in this section, "other administrator" does not include a superintendent, assistant superintendent, principal, or assistant principal.

(B) The board of education of each school district and the governing board of an educational service center may appoint one or more assistant superintendents and such other administrators as are necessary. An assistant educational service center superintendent or service center supervisor employed on a part-time basis may also be employed by a local board as a teacher. The board of each city, exempted village, and local school district shall employ principals for all high schools and for such other schools as the board designates, and those boards may appoint assistant principals for any school that they designate.

(C) In educational service centers and in city and exempted village school districts, assistant superintendents, principals, assistant principals, and other administrators shall only be employed or reemployed in accordance with nominations of the superintendent, except that a city or exempted village board of education or the governing board of a service center, by a three-fourths vote of its full membership, may reemploy any assistant superintendent, principal, assistant principal, or other administrator whom the superintendent refuses to nominate ~~after considering two nominees for the position~~. In local school districts, assistant superintendents,

principals, assistant principals, and other administrators shall only be employed or reemployed in accordance with nominations of the superintendent of the service center of which the local district is a part, except that a local board of education, by a ~~majority~~ three-fourths vote of its full membership, may reemploy any assistant superintendent, principal, assistant principal, or other administrator whom such superintendent refuses to nominate ~~after considering two nominees for the position.~~

The board of education or governing board shall execute a written contract of employment with each assistant superintendent, principal, assistant principal, and other administrator it employs or reemploys. The term of such contract shall not exceed three years except that in the case of a person who has been employed as an assistant superintendent, principal, assistant principal, or other administrator in the district or center for three years or more, the term of the contract shall be for not more than five years and, unless the superintendent of the district recommends otherwise, not less than two years. If the superintendent so recommends, the term of the contract of a person who has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more may be one year, but all subsequent contracts granted such person shall be for a term of not less than two years and not more than five years. When a teacher with continuing service status becomes an assistant superintendent, principal, assistant principal, or other administrator with the district or service center with which the teacher holds continuing service status, the teacher retains such status in the teacher's nonadministrative position as provided in sections 3319.08 and 3319.09 of the Revised Code.

A board of education or governing board may reemploy an assistant superintendent, principal, assistant principal, or other administrator at any regular or special meeting held during the period beginning on the first day of January of the calendar year immediately preceding the year of expiration of the employment contract and ending on the last day of March of the year the employment contract expires.

Except by mutual agreement of the parties thereto, no assistant superintendent, principal, assistant principal, or other administrator shall be transferred during the life of a contract to a position of lesser responsibility. No contract may be terminated ~~or suspended~~ by a board except pursuant to section 3319.16 ~~or 3319.17~~ of the Revised Code. No contract may be suspended except pursuant to section 3319.17 or 3319.171 of the Revised Code. The salaries and compensation prescribed by such contracts shall not be reduced by a board unless such reduction is a part of a uniform plan

affecting the entire district or center. The contract shall specify the employee's administrative position and duties as included in the job description adopted under division (D) of this section, the salary and other compensation to be paid for performance of duties, the number of days to be worked, the number of days of vacation leave, if any, and any paid holidays in the contractual year.

An assistant superintendent, principal, assistant principal, or other administrator is, at the expiration of the current term of employment, deemed reemployed at the same salary plus any increments that may be authorized by the board, unless such employee notifies the board in writing to the contrary on or before the first day of June, or unless such board, on or before the last day of March of the year in which the contract of employment expires, either reemploys such employee for a succeeding term or gives written notice of its intention not to reemploy the employee. The term of reemployment of a person reemployed under this paragraph shall be one year, except that if such person has been employed by the school district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the term of reemployment shall be two years.

(D)(1) Each board shall adopt procedures for the evaluation of all assistant superintendents, principals, assistant principals, and other administrators and shall evaluate such employees in accordance with those procedures. The evaluation based upon such procedures shall be considered by the board in deciding whether to renew the contract of employment of an assistant superintendent, principal, assistant principal, or other administrator.

(2) The evaluation shall measure each assistant superintendent's, principal's, assistant principal's, and other administrator's effectiveness in performing the duties included in the job description and the evaluation procedures shall provide for, but not be limited to, the following:

(1)(a) Each assistant superintendent, principal, assistant principal, and other administrator shall be evaluated annually through a written evaluation process.

(2)(b) The evaluation shall be conducted by the superintendent or designee.

(3)(c) In order to provide time to show progress in correcting the deficiencies identified in the evaluation process, the ~~completed~~ evaluation process shall be received by completed as follows:

(i) In any school year that the employee's contract of employment is not due to expire, at least one evaluation shall be completed in that year. A written copy of the evaluation shall be provided to the employee no later

than the end of the employee's contract year as defined by the employee's annual salary notice.

(ii) in any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination or suspension of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 or 3319.17 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

~~The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in this section shall prevent a board from making the final determination regarding the renewal of or failure to renew the contract of any assistant superintendent, principal, assistant principal, or other administrator.~~

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session to. In that meeting, the board shall discuss the its reasons for considering renewal or nonrenewal of the contract. the employee shall be permitted to have a representative, chosen by the employee, present at the meeting.

(5) The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in division (D) of this section shall prevent a board from making the final determination regarding the renewal or nonrenewal of the contract of any assistant superintendent, principal, assistant principal, or other administrator. However, if a board fails to provide evaluations pursuant to division (D)(2)(c)(i) or (ii) of this section, or if the board fails to provide at the request of the employee a meeting as prescribed in division (D)(4) of this section, the employee automatically shall be reemployed at the same salary plus any increments

that may be authorized by the board for a period of one year, except that if the employee has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the period of reemployment shall be for two years.

(E) On nomination of the superintendent of a service center a governing board may employ supervisors who shall be employed under written contracts of employment for terms not to exceed five years each. Such contracts may be terminated by a governing board pursuant to section 3319.16 of the Revised Code. Any supervisor employed pursuant to this division may terminate the contract of employment at the end of any school year after giving the board at least thirty days' written notice prior to such termination. On the recommendation of the superintendent the contract or contracts of any supervisor employed pursuant to this division may be suspended for the remainder of the term of any such contract ~~if there is a reduction of the number of approved supervisory teachers allocated to the service center~~ pursuant to section ~~3317.11 or 3319.17~~ or 3319.171 of the Revised Code.

(F) A board may establish vacation leave for any individuals employed under this section. Upon such an individual's separation from employment, a board that has such leave may compensate such an individual at the individual's current rate of pay for all lawfully accrued and unused vacation leave credited at the time of separation, not to exceed the amount accrued within three years before the date of separation. In case of the death of an individual employed under this section, such unused vacation leave as the board would have paid to the individual upon separation under this section shall be paid in accordance with section 2113.04 of the Revised Code, or to the estate.

Sec. 3319.14. Any teacher who has left, or leaves, a teaching position, by resignation or otherwise, and within forty school days thereafter entered, or enters, the uniformed services and whose service is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4304, shall be reemployed by the board of education of the district in which the teacher held such teaching position, under the same type of contract as that which the teacher last held in such district, if the teacher applies to the board of education for reemployment in accordance with the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4312. Upon such application, the teacher shall be reemployed at the first of the next school semester, if the application is made not less than thirty days

prior to the first of the next school semester, in which case the teacher shall be reemployed the first of the following school semester, unless the board of education waives the requirement for the thirty-day period.

For the purposes of seniority and placement on the salary schedule, years of absence performing service in the uniformed services shall be counted as though teaching service had been performed during such time.

The board of education of the district in which such teacher was employed and is reemployed under this section may suspend the contract of the teacher whose services become unnecessary by reason of the return of a teacher from service in the uniformed services in accordance with section 3319.17 or 3319.171 of the Revised Code.

Sec. 3319.171. (A) Notwithstanding section 3319.17 of the Revised Code, the board of education of a city, local, exempted village, or joint vocational school district or the governing board of an educational service center may adopt an administrative personnel suspension policy governing the suspension of any contract of employment entered into by a board under section 3319.02 of the Revised Code. If a board adopts a policy under this section, no contract entered into by a board under section 3319.02 of the Revised Code may be suspended except pursuant to the policy. If a board does not adopt such a policy, no such contract may be suspended by a board except pursuant to section 3319.17 of the Revised Code.

(B) The administrative Personnel suspension policy shall include, but not be limited to, all of the following:

(1) one or more reasons that a board may consider for suspending any contract of employment entered into under section 3319.02 of the Revised Code, a reason for such suspension may include the financial conditions of the school district or educational service center.

(2) Procedures for determining the order of suspension of contracts within the employment service areas affected;

(3) Provisions requiring a right of restoration for employees whose contracts of employment are suspended under the policy if and when any positions become vacant or are created for which any of them are or become qualified.

(C) The policy procedures and provisions adopted under divisions (B)(2) and (3) of this section shall be developed by the board of a district or service center with input from the superintendent and all assistant superintendents, principals, assistant principals, and other administrators employed by that board under section 3319.02 of the Revised Code.

Sec. 3319.18. If an entire school district or that part of a school district which comprises the territory in which a school is situated is transferred to

any other district, or if a new school district is created, the teachers in such districts or schools employed on continuing contracts immediately prior to such transfer, or creation shall, subject to section 3319.17 or 3319.171 of the Revised Code, have continuing service status in the newly created district, or in the district to which the territory is transferred.

The limited contracts of the teachers employed in such districts or schools immediately prior to such transfer, or creation, shall become the legal obligations of the board of education in the newly created district, or in the district to which the territory is transferred, subject to section 3319.17 or 3319.171 of the Revised Code. The teaching experience of such teachers in such prior districts or schools shall be included in the three years of service required under section 3319.11 of the Revised Code for a teacher to become eligible for continuing service status.

Teachers employed on limited or continuing contracts in an entire school district or that part of a school district which comprises the territory in which a school is situated which is transferred to any other district or which is merged with other school territory to create a new school district, shall be placed, on the effective date of such transfer or merger, on the salary schedule of the district to which the territory is transferred or the newly created district, according to their training and experience. Such experience shall be the total sum of the years taught in the district whose territory was transferred or merged to create a new district, plus the total number of years of teaching experience recognized by such previous district upon its first employment of such teachers.

The placement of the teachers on the salary schedule, pursuant to this section, shall not result, however, in the salary of any teacher being less than ~~his~~ the teacher's current annual salary for regular duties, in existence immediately prior to the merger or transfer.

In making any reduction in the number of teachers under section 3319.17 of the Revised Code by reason of the transfer or consolidation of school territory, the years of teaching service of the teachers employed in the district or schools transferred to any other district or merged with any school territory to create a new district, shall be included as a part of the seniority on which the recommendation of the superintendent of schools shall be based, under section 3319.17 of the Revised Code. Such service shall have been continuous and shall include years of service in the previous district as well as the years of continuous service in any district which had been previously transferred to or consolidated to form such district. When suspending contracts in accordance with an administrative personnel suspension policy adopted under section 3319.171 of the Revised Code, a

board may consider years of teaching service in its decision if it is a part of the suspension policy.

Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts:

(1) Five hundred thousand dollars;

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code.

(B) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, ~~give any order involving the expenditure of money~~, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by ~~the treasurer and president of the board of education and the superintendent~~ this section, that the school district has in effect ~~for the remainder of the fiscal year and the succeeding fiscal year~~ the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel; and ~~programs, and services essential to the provision of an adequate educational program~~ for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in ~~the~~ succeeding fiscal ~~year~~ years equal to the number of days instruction was held or is scheduled for the current fiscal year. ~~However, a,~~ as follows:

(1) A certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by the electors and is subject to appropriation in the current fiscal year. ~~In addition, a~~

(2) A certificate attached, in accordance with this section, to any qualifying contract shall cover the term of the contract ~~or the current fiscal year plus the two immediately succeeding fiscal years, whichever period of years is greater~~ If

(3) A certificate attached under this section to a wage or salary schedule

shall cover the term of the schedule.

If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and the any succeeding fiscal year years that the certificate must cover. Every

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose.

(C) Every qualifying contract made, ~~order given,~~ or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made. The

(D) The department of education and the auditor of state jointly shall ~~develop~~ adopt rules governing the methods by which treasurers, presidents of boards of education, ~~and~~ superintendents, and members of financial planning and supervision commissions shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section.

(E) The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since the district's last audit, and the appropriation measure, contract, ~~order,~~ or wage and salary schedule to which such certificate was attached. ~~This provision shall not preclude any court from making a determination regarding compliance with this section. If noncompliance is determined, the provisions of section 117.28 of the Revised Code shall have effect~~ If the auditor of state determines that a school district has not complied with this section with respect to any qualifying contract or wage or salary schedule, the auditor of state shall notify the prosecuting attorney for the county, the city director of law, or other chief law officer of the school district. That officer may file a civil action in any court of appropriate jurisdiction to seek a declaration that the contract or wage or salary schedule is void, to recover for the school district from the payee the amount of payments already made under it, or both, except that the officer shall not seek to recover payments

made under any collective bargaining agreement entered into under Chapter 4117. of the Revised Code. If the officer does not file such an action within one hundred twenty days after receiving notice of noncompliance from the auditor of state, any taxpayer may institute the action in the taxpayer's own name on behalf of the school district.

(F) This section does not apply to any contract, ~~order~~, or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract, ~~order~~, or increase does not exceed the amount required to be paid to be in compliance with such division.

(G) Any officer, employee, or other person who ~~knowingly~~ expends or authorizes the expenditure of any public funds or ~~knowingly~~ authorizes or executes any contract, ~~order~~, or schedule contrary to this section, ~~knowingly~~ expends or authorizes the expenditure of any public funds on the void contract, ~~order~~, or schedule, or ~~knowingly~~ issues a certificate under this section which contains any false statements is liable to the school district for the full amount paid from the district's funds on the contract, ~~order~~, or schedule. The officer, employee, or other person is jointly and severally liable in person and upon any official bond that the officer, employee, or other person has given to the school district to the extent of any payments on the void claim, not to exceed ~~twenty~~ ten thousand dollars. However, no officer, employee, or other person shall be liable for a mistaken estimate of available resources made in good faith and based upon reasonable grounds. If an officer, employee, or other person is found to have complied with rules jointly adopted by the department of education and the auditor of state under this section governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications required by this section, the officer, employee, or other person shall not be liable under this section if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. The prosecuting attorney of the county, the city director of law, or other chief law officer of the district shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district. If the prosecuting attorney, city director of law, or other chief law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the attorney general, or the taxpayer ~~may institute the action~~ in the taxpayer's own name ~~in~~, may institute the action on behalf of the subdivision.

(H) This section does not require the attachment of an additional

ertificate beyond that required by section 5705.41 of the Revised Code ~~for any purchase order~~, for current payrolls of, or contracts of employment with, regular employees or officers.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

~~(A)~~(1) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

~~(B)~~(2) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

~~(C)~~(3) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

SECTION 2. That existing sections 3314.10, 3316.07, 3319.02, 3319.14, 3319.18, and 5705.412 of the Revised Code are hereby repealed.

SECTION 3. The provisions of sections 3314.10, 3316.07, 3319.02, 3319.14, 3319.171, and 3319.18 of the Revised Code, as amended or enacted by this act, shall apply to the provision of evaluations of all assistant superintendents, principals, assistant principals, and other administrators beginning with the 2000-2001 school year regardless of the date their contracts were executed. However, the provisions of those sections, as amended or enacted by this act, shall not affect any terms or conditions of any employment contracts executed prior to the effective date of this act. The provisions of those sections, as amended or enacted by this act, also shall not be construed so as to create any rights or remedies for any assistant superintendent, principal, assistant principal, and other administrator for failure of a school district to evaluate such person under the provisions of those sections, as amended or enacted by this act, for any contract years prior to the 2000-2001 school year.

Section 4. Three years after the effective date of this section, the Auditor of State shall submit to the General Assembly a report that does all of the following:

(A) Enumerates and describes the citations that the Auditor of State issued during that three-year period to school districts for noncompliance with section 5705.412 of the Revised Code;

(B) Describes any fiscal, procedural, or other problems that the Auditor

of State determines to have resulted from this act's exclusion of agreements that are not "qualifying contracts" from the purview of that section;

(C) Recommends any future legislative changes in the policies contained in that section that the Auditor of State considers necessary or otherwise beneficial.

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 _____