

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 116**

**Senators Seitz, Cates**

**Cosponsors: Senators Jones, LaRose, Bacon, Beagle**

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**A B I L L**

To amend section 3319.081 and to enact section 1  
3319.0810 of the Revised Code to permit non-Civil 2  
Service school district boards to terminate 3  
positions of district transportation employees for 4  
reasons of economy and efficiency and to contract 5  
with independent agents to provide transportation 6  
services as long as certain conditions are 7  
satisfied. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3319.081 be amended and section 9  
3319.0810 of the Revised Code be enacted to read as follows: 10

**Sec. 3319.081.** Except as otherwise provided in division (G) 11  
of this section, in all school districts wherein the provisions of 12  
Chapter 124. of the Revised Code do not apply, the following 13  
employment contract system shall control for employees whose 14  
contracts of employment are not otherwise provided by law: 15

(A) Newly hired regular nonteaching school employees, 16  
including regular hourly rate and per diem employees, shall enter 17  
into written contracts for their employment which shall be for a 18  
period of not more than one year. If such employees are rehired, 19

their subsequent contract shall be for a period of two years. 20

(B) After the termination of the two-year contract provided 21  
in division (A) of this section, if the contract of a nonteaching 22  
employee is renewed, the employee shall be continued in 23  
employment, and the salary provided in the contract may be 24  
increased but not reduced unless such reduction is a part of a 25  
uniform plan affecting the nonteaching employees of the entire 26  
district. 27

(C) The contracts as provided for in this section may be 28  
terminated by a majority vote of the board of education. Except as 29  
provided in ~~section~~ sections 3319.0810 and 3319.172 of the Revised 30  
Code, the contracts may be terminated only for violation of 31  
written rules and regulations as set forth by the board of 32  
education or for incompetency, inefficiency, dishonesty, 33  
drunkenness, immoral conduct, insubordination, discourteous 34  
treatment of the public, neglect of duty, or any other acts of 35  
misfeasance, malfeasance, or nonfeasance. In addition to the right 36  
of the board of education to terminate the contract of an 37  
employee, the board may suspend an employee for a definite period 38  
of time or demote the employee for the reasons set forth in this 39  
division. The action of the board of education terminating the 40  
contract of an employee or suspending or demoting the employee 41  
shall be served upon the employee by certified mail. Within ten 42  
days following the receipt of such notice by the employee, the 43  
employee may file an appeal, in writing, with the court of common 44  
pleas of the county in which such school board is situated. After 45  
hearing the appeal the common pleas court may affirm, disaffirm, 46  
or modify the action of the school board. 47

A violation of division (A)(7) of section 2907.03 of the 48  
Revised Code is grounds for termination of employment of a 49  
nonteaching employee under this division. 50

(D) All employees who have been employed by a school district 51

where the provisions of Chapter 124. of the Revised Code do not 52  
apply, for a period of at least three years on November 24, 1967, 53  
shall hold continuing contracts of employment pursuant to this 54  
section. 55

(E) Any nonteaching school employee may terminate the 56  
nonteaching school employee's contract of employment thirty days 57  
subsequent to the filing of a written notice of such termination 58  
with the treasurer of the board. 59

(F) A person hired exclusively for the purpose of replacing a 60  
nonteaching school employee while such employee is on leave of 61  
absence granted under section 3319.13 of the Revised Code is not a 62  
regular nonteaching school employee under this section. 63

(G) All nonteaching employees employed pursuant to this 64  
section and Chapter 124. of the Revised Code shall be paid for all 65  
time lost when the schools in which they are employed are closed 66  
owing to an epidemic or other public calamity. Nothing in this 67  
division shall be construed as requiring payment in excess of an 68  
employee's regular wage rate or salary for any time worked while 69  
the school in which the employee is employed is officially closed 70  
for the reasons set forth in this division. 71

Sec. 3319.0810. (A) The board of education of any school 72  
district wherein the provisions of Chapter 124. of the Revised 73  
Code do not apply may terminate any of its transportation staff 74  
positions for reasons of economy and efficiency if the board 75  
instead of employing its own staff to transport some or all of the 76  
students enrolled in the district schools enters into a contract 77  
with an independent agent for the provision of transportation 78  
services for such students. Such a contract may be entered into 79  
only if all of the following conditions are satisfied: 80

(1) Any collective bargaining agreement between the employee 81  
organization representing the employees whose positions are 82

terminated under this section and the board has expired or will 83  
expire within sixty days and has not been renewed in conformance 84  
with provisions of that agreement and with Chapter 4117. of the 85  
Revised Code, or the agreement contains provisions permitting the 86  
termination of positions for reasons of economy and efficiency 87  
while the agreement is in force and the board is in conformance 88  
with those provisions. 89

(2) The board permits any employee whose position is 90  
terminated under this section to fill any vacancy within the 91  
district's organization for which the employee is qualified. The 92  
board shall select from among similarly qualified employees to 93  
fill such vacancies pursuant to procedures established under any 94  
collective bargaining agreement between the employee organization 95  
representing the terminated employees and the board that is in 96  
force at the time of the termination, or in absence of such 97  
provisions on the basis of seniority of employment by the board 98  
with the employee with the greatest seniority having highest 99  
priority. 100

(3) Unless a collective bargaining agreement between the 101  
employee organization representing the terminated employees and 102  
the board that is in force at the time of the termination provides 103  
otherwise, the board permits any employee whose position is 104  
terminated under this section to fill the employee's former 105  
position in the event that the board reinstates that position 106  
within one year after the date the position is terminated under 107  
this section. 108

(4) The board permits any employee whose position is 109  
terminated under this section to appeal in accordance with section 110  
119.12 of the Revised Code the board's decision to terminate the 111  
employee's position, not to hire that employee for another 112  
position pursuant to division (A)(2) of this section, or not to 113  
rehire that employee for the position if it is reinstated within 114

one year after the position is terminated pursuant to division 115  
(A)(3) of this section. 116

(5) The contract entered into by the board and an independent 117  
agent for the provision of transportation services contains a 118  
stipulation requiring the agent to consider hiring any employees 119  
of the school district whose positions are terminated under this 120  
section for similar positions within the agent's organization. 121

(6) The contract entered into by the board and an independent 122  
agent for the provision of transportation services contains a 123  
stipulation requiring the agent to recognize for purposes of 124  
employee representation in collective bargaining any employee 125  
organization that represented the employees whose positions are 126  
terminated under this section in collective bargaining with the 127  
board at the time of the termination provided: 128

(a) A majority of all employees in the bargaining unit agree 129  
to such representation; 130

(b) Such representation is not prohibited by federal law, 131  
including any ruling of the national labor relations board; 132

(c) The employee organization is not prohibited from 133  
representing nonpublic employees by other provisions of law or its 134  
own governing instruments. 135

However, any employee whose position is terminated under this 136  
section shall not be compelled to be included in such bargaining 137  
unit if there is another bargaining unit within the agent's 138  
organization that is applicable to the employee. 139

(B) If after terminating any positions of employment under 140  
this section the board fails to comply with any condition 141  
prescribed in division (A) of this section or fails to enforce on 142  
the agent its contractual obligations prescribed in divisions 143  
(A)(5) and (6) of this section, the terminations shall be void and 144  
the board shall reinstate the positions and fill them with the 145

employees who filled those positions just prior to the 146  
terminations. Such employees shall be compensated at a rate equal 147  
to their rate of compensation in those positions just prior to the 148  
terminations plus any increases paid since the terminations to 149  
other nonteaching employees. The employees shall also be entitled 150  
to back pay at such rate for the period from the date of the 151  
terminations to the date of the reinstatements minus any pay 152  
received by the employees during any time the board was in 153  
compliance with such conditions or during any time the board 154  
enforced those obligations. 155

Any employee aggrieved by the failure of the board to comply 156  
with any condition prescribed in division (A) of this section or 157  
to enforce on the agent its contractual obligations prescribed in 158  
divisions (A)(5) and (6) of this section shall have the right to 159  
sue the board for reinstatement of the employee's former position 160  
as provided for in this division in the court of common pleas for 161  
the county in which the school district is located or, if the 162  
school district is located in more than one county, in the court 163  
of common pleas for the county in which the majority of the 164  
territory of the school district is located. 165

**Section 2.** That existing section 3319.081 of the Revised Code 166  
is hereby repealed. 167