

As Reported by the Senate Education Committee

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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