

OEA Governmental Services Senate Bill 5 Analysis: AS PASSED BY THE SENATE

SB 5 would impact CBAs entered into on or after the bills effective date (90 days after signing by Gov.).

IMPACT ON EMPLOYEES OF SCHOOL DISTRICTS:

- K-12 school employees may bargain wages, hours and terms and conditions of employment. HOWEVER, the bill outlines extensive restrictions and prohibitions on bargaining.

Bargaining restrictions and prohibitions:

- Teacher and non-teaching salaries and must be based on performance based measures:
 - Teacher performance based measures: Level of teacher license; whether the teacher is a “highly qualified teacher” under law; the value-added measure the board uses to determine the performance of the students assigned to the teacher’s classroom; the results of the teacher’s performance evaluations, any peer review program created by an agreement between the board and teachers association, or another system of evaluation used by the board; any other criteria established by the board. Eliminates statutory salary schedule and state minimum salary.
 - ESP’s performance based measures undefined. Prohibits hourly overtime rates that exceed the rate required by the Fair Labor Standards Act. Eliminates statutory salary schedule.
- Each CBA covering public employees of school districts shall comply with all applicable state or local laws regarding wages, hours, and terms and conditions of employment of public employees.
- No bargaining on health care benefits or anything less than a 15% employee premium. Benefits for employees must be the same as management level employees.
- Any employer pickup of an employee’s share of contribution to a state retirement system.
- Leave can be collectively bargained but statutory requirement of sick and/or vacation leave eliminated.
- Any requirement that employer use employee length of service as the only factor in a RIF.
- Any requirement to bargain subjects that “affect” wages, hours, terms and conditions of employment.
- Any existing provision of a CBA that was modified, renewed, or extended from a prior CBA that is not included in the definition of “wages, hours, and terms and conditions” shall not be a mandatory subject of CB. The inclusion of a provision in a previous CBA shall not be used as a basis for the provision being determined to be within the definition of “wages, hours, and terms and conditions.”
- Any provision prohibiting a public employer that is in a state of fiscal emergency from serving written notice to terminate, modify, or negotiate a CBA.
- Any provision prohibiting a public employer in a state of fiscal watch from serving a written notice to modify a CBA so that salary or benefit increases, or both, are suspended.
- Any agreement that purports to require that employees join any exclusive bargaining representative.
- Any requirements that the public employer employ a min. # of total personnel or any category of personnel.
- Any restrictions on the authority of the public employer to assign personnel or workload to school buildings.
- Any establishment of a maximum number of students who may be assigned to a classroom or teacher.
- Any prohibitions on the public employer from making reductions in teachers or nonteaching employees for any statutory reason.
- Any restrictions on the authority of the public employer to acquire non-educational services from another public or private entity through competitive bidding.
- Significantly expands the list of public employer management rights not subject to mandatory bargaining.
- Any provision that allows accrual of leave credits in excess of 6 weeks annual paid vacation prior to 20 years of service, 12 paid holidays annually, 3 paid personal days annually.
- Any provision for the payout of an accumulated paid sick leave balance that exceeds 50% of total sick leave accumulations or for accumulated sick leave in excess of 1,000 hours.

Teacher Contracts:

- An initial limited contract for a classroom teacher, entered into on or after the effective date of the bill, shall not exceed three years. Any subsequent limited contract: not less than 2 years and not more than 5 years.
- No continuing contracts may be entered into on or after the effective date of the bill.

Layoffs:

- Prohibits any CBA provision that requires an employee's length of service as the only factor in a RIF or that restricts the authority of the public employer to determine the order of layoffs.
- Subject to a preference for teachers with a continuing contract, the principal factor in teacher RIFs must be a school board's consideration of the relative quality of performance, including type of license held, "highly qualified" status, use of a value-added measure and results of the teacher's performance evaluation, and any peer review program created by an agreement entered into by a board of education and representative of teachers employed by that board.
- Subject to a preference for non-teaching employees with continuing contracts, the principal factor in RIFs must be the relative quality of performance, as measured by the board.

ALL PUBLIC EMPLOYEES:

Right to Strike:

- Prohibits public employee strikes and establishes penalties for engaging in an illegal strike, including deduction of an amount equal to twice the daily rate of pay for each day on strike, a fine of \$1,000 and up to 30 days imprisonment, or both.

Settlement Procedure:

- If 14 days after the publication of fact finding recommendations and the CBA has expired, the public employer shall submit the findings, along with the last best offer of the employer and employee organization to the legislative body of the employer. After a public hearing, the legislative body (e.g. school board) must vote to accept either offer.

IMPACT ON EMPLOYEES OF STATE AGENCIES AND STATE INSTITUTIONS OF HIGHER EDUCATION:

- State agency employees can bargain over wages, hours and terms and conditions of employment.
- Employees of state institutions of higher education may bargain wages, hours and terms and conditions of employment. HOWEVER, faculty is generally excluded from collective bargaining by being defined as "supervisors" or "management level" employees and ineligible to collectively bargain.
- Caps vacation leave accumulation at 7.7 hours per biweekly pay period after 19 years of service (current cap is 9.2 hrs./bi-weekly pay period after 24 yrs. of service), which supersedes CBA's entered into on or after the effective date of the bill. Reduces sick leave accrual from 4.6 hours to 3.1 hours per biweekly pay period.
- No bargaining on health care benefits or anything less than a 15% employee premium. Benefits for employees must be the same as management level employees.
- Prohibits public employer from paying any part of the employee's contribution to state retirement system.
- Prohibits an agency from using an employee's length of service as the only factor to determine whether to lay off the employee. Layoffs determined by a system of retention points for each employee, based on length of service, efficiency of service and other similar factors the director considers appropriate.
- No "affects" bargaining; CBA provisions do not become mandatory bargaining matters b/c they are in a previous contract.