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April 4, 2011

ATTORNEY GENERALS OFFICE

VIA HAND DELIVERY

APR 04 2011

Hon. Mike DeWine
Ohio Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215-3428

RECEIVED
CONSTITUTIONAL OFFICES

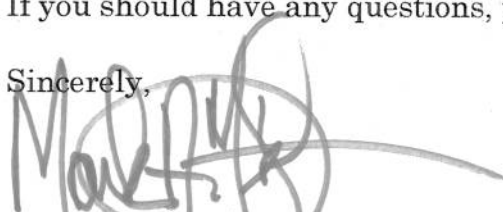
Re: *Preliminary Petition for Am. Sub. S.B. 5 - SHORT*

Dear Attorney General DeWine:

Pursuant to R.C. § 3519.01(B), I am hereby filing a copy of a petition containing the signatures of more than one thousand qualified electors who seek to file a referendum petition against Am. Sub. S.B. No. 5 of the 129th Ohio General Assembly. The petition is composed of 76 part-petitions. The original has been filed with the Ohio Secretary of State. I would appreciate your office reviewing the summary set forth on the petition against the text of the law and issuing a certification under the statute as expeditiously as possible.

If you should have any questions, please do not hesitate to contact me by telephone or email.

Sincerely,


MARK A. MCGINNIS
Attorney at Law

REFERENDUM PETITION

To the Secretary of State and Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(B), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to each of you the full text of Amended Substitute Senate Bill Number 5 of the 129th General Assembly (the "Act") and a summary of the same.

TITLE

A referendum petition on Amended Substitute Senate Bill Number 5 passed by the 129th General Assembly (the "Act"), the title and legislative history of the Act being:

AN ACT

To amend sections 9.81, 9.90, 9.901, 102.02, 103.74, 109.33, 122.40, 122.64, 122.72, 124.11, 124.134, 124.14, 124.15, 124.152, 124.181, 124.322, 124.325, 124.34, 124.38, 124.382, 124.388, 124.39, 124.81, 124.82, 126.32, 141.01, 141.02, 145.012, 145.47, 306.04, 307.054, 339.06, 339.07, 340.04, 505.38, 505.49, 505.60, 709.012, 742.31, 742.63, 749.082, 749.083, 917.03, 927.69, 991.02, 1349.71, 1509.35, 1513.182, 1513.29, 1545.071, 1551.35, 1707.36, 1707.46, 3301.03, 3304.12, 3306.01, 3307.27, 3307.77, 3309.47, 3311.19, 3313.12, 3313.202, 3313.23, 3313.24, 3313.33, 3313.42, 3314.10, 3316.07, 3317.01, 3317.018, 3317.11, 3317.13, 3319.01, 3319.011, 3319.02, 3319.06, 3319.08, 3319.084, 3319.085, 3319.088, 3319.09, 3319.10, 3319.11, 3319.111, 3319.13, 3319.14, 3319.141, 3319.17, 3319.172, 3319.18, 3319.61, 3319.63, 3326.18, 3332.03, 3701.33, 3737.81, 3737.90, 3770.02, 3772.06, 3773.33, 3781.07, 4112.03, 4117.01, 4117.02, 4117.03, 4117.05, 4117.06, 4117.07, 4117.08, 4117.09, 4117.10, 4117.11, 4117.12, 4117.13, 4117.14, 4117.15, 4117.18, 4117.20, 4117.21, 4123.352, 4301.07, 4517.30, 4701.03, 4701.05, 4703.03, 4703.31, 4709.04, 4715.06, 4717.02, 4723.02, 4725.06, 4725.46, 4729.03, 4730.05, 4731.03, 4732.05, 4733.05, 4734.03, 4738.09, 4741.02, 4747.03, 4753.04, 4755.01, 4757.05, 4758.12, 4759.03, 4761.02, 4763.02, 4775.05, 4905.10, 4906.02, 4911.07, 5107.26, 5119.09, 5123.51, 5126.24, 5139.02, 5503.03, 5505.15, and 5703.09, to enact new section 3319.112 and sections 124.94, 4113.80, 4117.081, 4117.104, 4117.105, 4117.106, 4117.107, 4117.108, 4117.109, 4117.141, 4117.26, and 4117.27, and to repeal sections 3317.12, 3317.14, 3319.112, 3319.131, 3319.142, 3319.143, 4117.16, 4117.22, and 4117.23 of the Revised Code to make various changes to laws concerning public employees, including collective bargaining, salary schedules and compensation, layoff procedures, and leave.

Legislative History:

Introduced on 02/01/2011 as Senate Bill 5; Substitute bill reported by the Senate Insurance, Commerce, & Labor Committee on 03/02/2011; Substitute bill amended and passed by the Senate on 03/02/2011; introduced in the House of Representatives on 03/03/2011; Substitute bill reported by House Commerce & Labor Committee on 03/29/2011; Substitute bill amended and passed by House on 03/30/2011; Senate concurrence on 03/30/2011; Signed into law by the Governor on 03/31/2011; filed by the Governor with the Secretary of State on April 1, 2011.

SUMMARY

Am. Sub. S. B. No. 5 repeals and revises existing and enacts new provisions of the Ohio Revised Code relating to laws concerning public employees, including collective bargaining, salary schedules and compensation, layoff procedures, and leave, including, but not limited to, the following:

- Expands the list of subjects that are inappropriate for collective bargaining.
- Permits public employers to not bargain on any subject reserved to the management and direction of the governmental unit, even if the subject affects wages, hours, and terms and conditions of employment.
- Prohibits an existing provision of a collective bargaining agreement that was modified, renewed, or extended that does not concern wages, hours, and terms and conditions from being a mandatory subject of collective bargaining.
- Allows a public employer to engage in specified employment related actions at the employer's discretion unless the public employer specifically agrees otherwise in an express written provision of a collective bargaining agreement, with certain exceptions concerning equipment.
- Prohibits "public employees" from striking.

- Requires the public employer to deduct from the compensation of a striking employee an amount equal to twice the employee's daily rate of pay for each day or part thereof that the employee engaged in a strike.
- Expands the definition of "supervisor" with respect to members of a fire or police department.
- Expands the definition of "supervisor" and "management level employee" with respect to faculty of a state institution of higher education to include those involved in certain decisions.
- Prohibits employees of community schools from collectively bargaining, except for conversion community schools.
- Allows the governing authority of a conversion community school to opt out of collectively bargaining with the community school's employees.
- Limits the ability of other employees to collectively bargain with their public employers, including regional council of government employees and certain members of the unclassified civil service, to allow the employees to bargain only if the public employer elects to do so.
- Removes continuation, modification, or deletion of an existing collective bargaining agreement from the subject of collective bargaining.
- Changes the time limitations within which the State Employment Relations Board must act upon a request for recognition.
- Allows the Board to determine appropriate units, remove classifications from a bargaining unit, or hold an election regardless of an agreement or a memorandum of understanding granting nonexclusive or deemed certified recognition.
- Prohibits an appropriate unit of firefighters from including rank and file members with members who are of the rank lieutenant and above.
- Permits certain groups to file a decertification petition demonstrating that 30% of the employees in the described bargaining unit support the petition.
- Prohibits a public employer that is a school district, educational service center, a conversion community school that collectively bargains, or STEM school from entering into a collective bargaining agreement that does specified things, such as establishing a maximum number of students who may be assigned to a classroom or teacher.
- Requires collective bargaining agreements between such an education-related public employer and public employees to comply with all applicable state or local laws or ordinances regarding wages, hours, and terms and conditions of employment, unless the conflicting provision establishes benefits that are less than provided in the law or ordinance.
- Prohibits a collective bargaining agreement from prohibiting a public employer that is in a state of fiscal emergency from serving a written notice to terminate, modify, or negotiate the agreement.
- Prohibits a collective bargaining agreement from prohibiting a public employer that is in a state of fiscal watch from serving a written notice to modify a collective bargaining agreement so that salary or benefit increases, or both, are suspended.
- Prohibits an agreement from containing a provision that requires as a condition of employment that the nonmembers of the employee organization pay to the employee organization a fair share fee.
- Prohibits a collective bargaining agreement entered into or renewed on or after the bill's effective date from containing provisions limiting a public employer's ability to privatize operations.

- Prohibits a collective bargaining agreement entered into or renewed on or after the bill's effective date from containing provisions for certain types of leave to accrue above listed amounts or to pay out for sick leave at a rate higher than specified amounts.
- Prohibits a collective bargaining agreement entered into or renewed on or after the bill's effective date from containing certain provisions regarding the deferred retirement option plan.
- Limits the currently required grievance procedure to unresolved grievances that are based on the disputed interpretations of the written provisions of the agreement.
- Eliminates the ability of the parties to submit disputes to an agreed-upon dispute resolution procedure.
- Extends the timelines involved in the dispute resolution process.
- Expands the list of factors a fact-finder must consider in resolving disputes, and requires the fact-finder to consider as the primary factor the interests and welfare of the public and the ability of the public employer to finance and administer the issues proposed.
- Eliminates the final offer settlement procedure.
- Requires the legislative body of the public employer to be the final decision-maker with respect to any dispute that is unresolved during the fact-finding process, and prescribes procedures and requirements for the legislative body to make a determination.
- Requires any agreement determined by the legislative body to be in effect for three years.
- Requires, if the legislative body fails to select a last best offer, the public employer's last best offer to become the agreement between the parties.
- Allows, for certain public employers, if the legislative body selects the last best offer that costs more and the chief financial officer of the legislative body determines that insufficient funds exist or refuses to determine whether sufficient funds exist to cover the agreement, the last best offers to be submitted to the voters for selection.
- Prescribes procedures to place the last best offers on the ballot and for that election.
- Expands the list of unfair labor practices that may be committed by an employee organization, its agents, or public employees and the remedies that may be applied for unfair labor practices committed by those entities.
- Revises the procedures regarding hearings on unfair labor practice charges.
- Requires a public employer to report certain information about compensation paid to public employees under a collective bargaining agreement.
- Repeals the provision requiring the Public Employee Collective Bargaining Law to be liberally construed.
- Generally eliminates statutory salary schedules and steps.
- Requires performance-based pay for most public employees, including board and commission members, and makes other, related changes.
- Requires performance-based pay for teachers based, in part, on evaluations conducted under a policy that is based on a framework for teacher evaluations that has been recommended by the Superintendent of Public Instruction and adopted by the State Board of Education.

- Caps vacation leave for certain public employees at 7.7 hours per biweekly pay period and limits total accrual for those public employees currently accruing 9.2 hours per pay period.
- Reduces sick leave accrual for most public employees from 4.6 hours to 3.1 hours per biweekly pay period.
- Limits public employer contributions toward health care benefit costs to 85%.
- Requires health care benefits provided to management level employees to be the same as any health care benefits provided to other employees of the same public employer.
- Requires boards of education to adopt policies to provide leave with pay for school employees and abolishes statutorily provided leave for those employees.
- Abolishes continuing contracts for teachers, except for those continuing contracts in existence prior to the effective date of the bill and revises the law relating to limited contracts.
- Prohibits a public employer from paying employee contributions to the five public employee retirement systems.
- Requires health care benefits provided through a jointly administered trust fund to be the same as the health care benefits provided to other public employees.
- Allows death benefits paid under the Police and Fire Pension Fund to be paid in accordance with existing salary schedules and increases in salaries.
- Removes consideration of seniority and length of service, by itself, from decisions regarding a reduction in work force of certain public employees.
- Creates the Ohio Commission for Excellence in Public Service to establish and guide programs that foster best practices in public service workplaces.

If a majority of the voters vote to not approve the Act, then enacted changes will not take effect and the prior version of the affected laws will remain in effect.

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

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