

BILL SUMMARY – SB 5

The Public Employees' Collective Bargaining Law

This is a summary of the major provisions included in Senate Bill 5, legislation passed in March of 2011 to amend the public employee union law. A referendum effort has placed the bill on the November 2011 ballot. A vote of “Yes” on the ballot will be a vote to maintain the provisions of SB 5 (outlined below). A vote of “No” on the ballot will be a vote to reject SB 5.

Strikes

- Prohibits "public employees" from striking
- If a public employee strikes, requires the employer to deduct an amount equal to twice the employee's daily pay for each day the employee strikes

Ability to bargain

- Prohibits community school¹ employees from collective bargaining, except for conversion schools. Conversion schools² may “opt out” of collective bargaining
- Expands the definition of “supervisor” and “management” for police, fire, and public university employees, reducing the number of employees eligible to collectively bargain

Subjects of collective bargaining

- Expands the list of subjects that are inappropriate for collective bargaining, including:
 - Health insurance/health care
 - Pension pickups
 - Issues related to the management and direction of the unit (staffing levels, building assignments, promotions)
- Prohibits provisions of a current contract (that do not concern wages, hours, and terms and conditions) from being automatic provisions of the next contract
- Allows limited bargaining over equipment

¹ Community Schools (often called 'Charter Schools') are public schools that are independent of a local school district. Community schools are public nonprofit, nonsectarian schools that operate independently of any school district. Community Schools are public schools of choice and are state and federally funded. There are three types of community schools: new start-ups, district-sponsored conversion community schools and ESC-sponsored conversion community schools.

² Conversion schools are community schools that were formerly traditional public schools.

Provisions of a collective bargaining agreement

- Permits a public employer in a state of fiscal emergency serve written notice to end or renegotiate the agreement, including suspension of future salary or benefit increases
- Eliminates “Fair Share” requirements – the requirements that those not in the union pay some union dues
- Eliminates the ability for a contract to prohibit privatization of employer elements
- Caps and limits payment of accrued sick time to 50%
- For Police and Fire, makes changes to the Deferred Retirement Option Plan (DROP). Specifically prohibits (in DROP):
 - Supplemental wage payments based on employment length
 - Paid vacation leave in excess of five weeks per year
 - Carry-over of vacation in excess of 3 years’ accumulation
- Currently used grievance procedure used, but is limited to unresolved grievances based on disputed interpretations of the written parts of the agreement

Dispute resolution

- Eliminates binding arbitration for police and firefighters
- 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
- If a deadlock cannot be resolved, requires the legislative body of the public employer to be the final decision-maker on the issue and prescribes procedures and requirements for the legislative body to make its decision, which will then be in effect for 3 years
- Allows a referendum on the decision to be placed on the ballot

Unfair labor practices

- Expands the list of unfair labor practices that may be committed by a union, its agents, or public employees and the remedies that may be applied for unfair labor practices committed by those entities to include:
 - Inducing or encouraging secondary boycotts
 - Insisting that a permissive subject of collective bargaining be bargained to impasse
 - Makes striking or refusing to work an unfair labor practice. In current law, striking or refusing to work *without prior notice* is an unfair labor practice
- Revises the procedures regarding hearings on unfair labor practice charges

Public employee pay

- In general, eliminates statutory salary schedules and automatic pay “step” increases, and requires performance-based pay for most public employees, including board and commission members
- 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

Public employee benefits

- Caps vacation leave for certain public employees not in a bargaining unit at 7.7 hours per biweekly pay period and limits total accrual for those public employees currently accruing 9.2 hours per pay period (vacation leave for employees in bargaining units limited to 6 weeks annually for employees with fewer than 20 years of service)
- Reduces sick leave accrual under civil service 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 not under a collective bargaining agreement and abolishes certain statutorily provided leave
- Abolishes continuing contracts for teachers, except for those continuing contracts in existence prior to the effective date of the bill
- 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

Miscellaneous changes in the Public Employee Collective Bargaining Law

- Requires a public employer to report certain information about compensation paid to public employees under a collective bargaining agreement within 30 days of the agreement. Terms include:
 - Each provision that affects the compensation of the employee
 - Description of the changes in compensation paid, if the changes are not addressed in the agreement but will occur while the agreement is in effect
 - Material terms of the agreement
- Repeals the provision requiring the Public Employee Collective Bargaining Law to be liberally construed.
- Eliminates automatic deductions of money for union political action committees without written consent of employee
- Reduces the petition requirement for union decertification from 50% to 30% of members, but still requires a majority vote to decertify.
- Removes seniority and length of service as sole determination of reductions in work force