

HB 530 Summary
Relevant DAS/HRD Provisions

Overview

The bill makes revisions to the laws governing paid leave, compensation, healthcare benefits, and layoffs with regard to exempt employees, specified state employees, or state employees in general.

Proficiency assessments

(R.C. 124.09(B))

The Director of DAS is required to keep records of the Director's proceedings and all examinations the Director conducts. Those records, except examinations and recommendations of former employers, must be open for public inspection under reasonable regulations. Under certain circumstances, the exceptions do not apply to the Governor or the Governor's designee in connection with an investigation.

The bill also declares proficiency assessments in the Director's records as exempt from the "open for public inspection" general requirement.

Right of a state employee to return to a classified position after being appointed to an unclassified position

(R.C. 124.11(D))

Current law authorizes an appointing authority whose employees are paid by warrant of the Auditor of State (changed by the bill otherwise to the warrant of the Director of Budget and Management) to appoint a person who holds a certified position in the classified service within the appointing authority's agency to a position in the unclassified service in that agency. A person appointed to a position in the unclassified service in this manner retains the right to resume the position and status the person held in the classified service immediately before the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. These provisions of current law, and the provisions of the bill described in the following paragraph, do not apply to employees in positions in the unclassified service of the Bureau of Workers' Compensation or the Departments of Mental Health, Rehabilitation and Correction, Mental Retardation and Developmental Disabilities, Youth Services, and Transportation who, under specific statutes applicable to the Bureau and those departments, have the right to resume positions in the classified service.

The bill provides that an employee's right to resume a position in the classified service may *only be exercised when* an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee *forfeits* the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the Civil Service Law or the rules of the Director of Administrative Services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also *forfeits* the right to resume a position in the classified service upon transfer to a different agency.

Use of sick leave, vacation leave, personal leave, and compensatory time only if appears on an employee's earnings statement

(R.C. 124.134, 124.18, and 124.386)

Current law credits each full-time permanent and part-time permanent employee whose salary or wage is paid directly by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management) with sick leave of 3.1 hours for each completed 80 hours of service, excluding overtime hours worked. The bill provides that this sick leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee. (R.C. 124.382(B).)

Current law grants vacation leave to (1) certain full-time permanent employees who are paid by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management), who are included in the job classification plan established by the Director of Administrative Services, and who are exempt from collective bargaining coverage, (2) full-time permanent employees of the General Assembly, the Supreme Court, or the Governor's office, (3) full-time permanent employees of the Auditor of State, Treasurer of State, Secretary of State, or Attorney General who are in the unclassified civil service and exempt from collective bargaining coverage, and (4) employees who hold positions for which the authority to determine compensation is given by law to a specific

individual or entity other than the Director of Administrative Services. The bill provides that this vacation leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee. (R.C. 124.134(A).)

Current law grants personal leave of 32 hours each year to (1) certain employees who are paid by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management), who are included in the job classification plan established by the Director of Administrative Services, and who are exempt from collective bargaining coverage, (2) full-time permanent employees of the General Assembly, the Supreme Court, or the Governor's office, (3) full-time permanent employees of the Auditor of State, Treasurer of State, Secretary of State, or Attorney General who are in the unclassified civil service and exempt from collective bargaining coverage, and (4) employees who hold positions for which the authority to determine compensation is given by law to a specific individual or entity other than the Director of Administrative Services. The bill provides that this personal leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee. (R.C. 124.386(A).)

Current law authorizes employees paid in whole or in part by the state or by a state-supported college or university to elect to take compensatory time off in lieu of receiving overtime pay, on a time and one-half basis, at a time mutually convenient to the employee and the employee's administrative superior. The bill provides that compensatory time is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee. (R.C. 124.18(A).)

Current law provides that the use of sick leave must not be considered to be active pay status for the purposes of earning overtime pay or compensatory time by employees whose wages are paid by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management). The bill further provides that *the use of any leave in lieu of sick leave* must not be considered for these purposes. (R.C. 124.18(A).)

Holiday pay

(R.C. 124.18)

Current law prohibits an employee paid by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management) who is scheduled to work on a holiday and who does not report to work due to an illness of the employee or of a member of the employee's immediate family from receiving holiday pay. The bill instead provides that an employee paid by warrant of the Director of Budget and Management who is scheduled to work on a holiday and who does not report to work *the day before, the day of, or the day after a holiday* due to an illness of the employee or of a member of the employee's immediate family must not receive holiday pay, *unless the employee can provide documentation of extenuating circumstances that prohibited the employee from so reporting to work*. (R.C. 124.18(B)(1).)

Current law entitles an employee whose work schedule is other than Monday through Friday to holiday pay for holidays observed on the employee's day off regardless of the day of the week on which they are observed. The bill entitles such an employee to *eight hours of holiday pay* for holidays observed on the employee's day off regardless of the day of the week on which they are observed. (R.C. 124.18(B)(3).)

Current law entitles a flexible-hours employee (an employee who may work more or less than eight hours on any given day as long as the employee works 40 hours in the same week) to holiday pay for the number of hours for which the employee would normally have been scheduled to work. The bill instead provides that a flexible-hours employee, who is normally scheduled to work in excess of eight hours on a day on which a holiday falls, either must be required to work an alternate schedule for that week or must receive additional holiday pay for the hours the employee is normally scheduled to work. The alternate schedule may require a flexible-hours employee to work five shifts consisting of eight hours each during the week including the holiday. In such a case, the employee must receive eight hours of holiday pay for the day the holiday is observed. (R.C. 124.18(B)(4).)

Current law requires part-time permanent employees to be paid holiday pay for that portion of any holiday for which they normally would have been scheduled to work. The bill requires that part-time permanent employees receive holiday pay on a pro-rated basis, based upon the daily average of actual hours worked, excluding overtime hours worked, in the previous calendar quarter. The figure must be calculated for the preceding calendar quarter on the first day of January, April, July, and October of each year. (R.C. 124.18(B)(5).)

The bill also entitles a full-time permanent employee to a *minimum* of eight hours of holiday pay for each holiday regardless of the employee's work shift and schedule, rather than just eight hours of holiday pay as required by current law (R.C. 124.18(B)(4)).

Other changes relating to sick leave and personal leave

(R.C. 124.382 and 124.386)

Current law authorizes a portion of any sick leave credit remaining as of the last day of the pay period preceding the next succeeding base pay period (the pay period that includes December 1 of each year) to be converted into cash. The bill eliminates the reference to "next succeeding base pay period" and instead authorizes a portion of any sick leave credit remaining as of the last day of the pay period preceding the first paycheck the employee receives in December to be converted into cash. (R.C. 124.382(A)(1) and (C).)

Current law credits a newly appointed full-time permanent employee or a nonfull-time employee who receives a full-time permanent appointment with personal leave of 32 hours, less 1.2 hours for each pay period that has elapsed following the base pay period (see above), until the first day of the pay period during which the appointment was effective. Again, the bill eliminates the reference to "base pay period" and instead credits a newly appointed full-time permanent employee or a nonfull-time employee who receives a full-time permanent appointment with personal leave of 32 hours, less 1.2 hours for each pay period that has elapsed following the first paycheck the employee receives in December, until the first day of the pay period during which the appointment was effective. (R.C. 124.386(C).)

Paid leave for attendance as a witness

(R.C. 124.135)

Current law entitles state employees to paid leave when subpoenaed to appear before any court, commission, board, or other legally constituted body authorized by law to compel the attendance of witnesses, if the employee is not a party to the action. The bill continues to entitle a state employee to paid leave when subpoenaed to appear before any court, commission, board, or other legally constituted body authorized by law to compel the attendance of witnesses, but provides that a state employee is not entitled to paid leave if the employee is a party to the action or proceeding involved (similar to current law) *or is subpoenaed to testify as a result of secondary employment outside the service of the state.*

Payment of state employees by direct deposit

(R.C. 124.151)

Current law requires the payment by direct deposit of the compensation of any employee whose employment commenced on or after June 5, 2002, and who is paid by warrant of the Auditor of State. The bill instead requires that all employees paid by warrant of the Director of Budget and Management be paid by direct deposit *except for an employee who was appointed to the employee's current position before June 5, 2002, who is a public employee subject to the Public Employee Collective Bargaining Law, and whose applicable collective bargaining agreement does not require the employee to be paid by direct deposit.* (R.C. 124.151(B)(1) and (2).)

Schedules of rates for certain public employees

(R.C. 124.152)

Overview. Continuing law provides that certain public employees are paid a wage or salary that is determined using one of four "schedules of rates" set forth in R.C. 124.15 and 124.152. Depending upon the type of employee, there is a specific schedule of rates that applies to and establishes the compensation for the employee.

Managerial and professional employees. Under current law, managerial and professional public employees who are permanent employees paid directly by warrant of the Auditor of State, whose position is included in the state's job classification plan, and who are exempt from the Collective Bargaining Law ("exempt employees") receive wages or salaries based upon the schedule of rates known as "Schedule E-2." Under the E-2 schedule, there are a certain number of different "pay ranges" to which an employee paid under that schedule is assigned. Then, for each pay range, there is a specific minimum and maximum hourly wage or annual salary that the employee may receive. (R.C. 124.152(B) and (C).)

Nonmanagerial and nonprofessional employees. Exempt employees who are not managerial or professional employees paid under Schedule E-2 receive wages or salaries based upon the schedule of rates known as "Schedule E-1." Similar to the E-2 schedule, the E-1 schedule contains a certain number of different pay ranges to which an employee under that schedule is assigned. However, rather than having a minimum and maximum hourly wage and

annual salary for each pay range as under the E-2 schedule, pay ranges under the E-1 schedule contain a number of "step values," one to which an employee is assigned, with each step providing for a specifically set hourly wage or annual salary. (R.C. 124.152(B) and (C).)

Adjustment of schedules of rates. Under current law, there are two different sets of E-1 and E-2 schedules: one set that essentially was applicable for pay periods between July 1, 2002, and June 30, 2005, and another set that essentially is *currently applicable* for pay periods on and after July 1, 2005. The bill eliminates the two sets of E-1 and E-2 schedules mentioned above and enacts new E-1 and E-2 schedules. The new schedules will apply beginning on the first day of the pay period that includes July 1, 2006, and include a 3% increase in the salaries and wages. (R.C. 124.152(B).)

Paper layoffs

(R.C. 124.321 and 124.324)

Under current law, subject to certain limitations, a laid-off employee has the right to displace the employee with the fewest retention points in the classification from which the employee was laid off or in a lower or equivalent classification in a specified order. Laid-off employees are given a notice of layoff. If they wish to exercise their displacement rights, they must notify the appointing authority within five days after receiving the notice of layoff. If they choose to displace, the next group of employees goes through the same process until all affected employees are either displaced or laid off.

The bill allows the Director of Administrative Services to establish a paper layoff process under which employees who are to be laid off or displaced may be required, before the date of their paper layoff, to preselect their options for displacing other employees.

Voluntary cost savings program

(R.C. 124.392)

The bill allows the Director of Administrative Services to establish a voluntary cost savings program for exempt employees and specifies that, if the Director decides to establish such a program, the Director must adopt rules in accordance with the Administrative Procedure Act to provide for its administration.

Changes to the laws governing health care benefits for state employees

(R.C. 124.82, 124.822, 124.87, 124.92, and 3917.04)

Background law. Current law requires the Department of Administrative Services, in consultation with the Superintendent of Insurance and in accordance with the competitive selection procedures of the State Purchasing Law, to contract with an insurance company, or a health plan in combination with an insurance company, authorized to do business in Ohio, for the issuance of a policy or contract of health, medical, hospital, dental, or surgical benefits (or any combination of them) covering state employees paid directly by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management), including elected state officials. In addition, the Department, in consultation with the Superintendent of Insurance, may negotiate and contract with health insuring corporations holding a certificate of authority under Ohio law, in their approved areas only, for the issuance of a contract or contracts of health care services covering state employees paid directly by warrant of the Auditor of State (changed by the bill otherwise to warrant of the Director of Budget and Management), including elected state officials. (R.C. 124.82(A) and (B).)

Limitation. Current law provides that, except for health insuring corporations, *no more than one* insurance carrier or health plan can be contracted with to provide the same plan of benefits for the described state employees. The bill instead *authorizes* the Department to enter into contracts with *one or more insurance carriers or plans* to provide the same plan of benefits. (R.C. 124.82(B).)

Condition of entry into a health insuring corporation contract. Current law mandates that the Department require, as a condition of entering into a contract with a health insuring corporation that desires to provide health care services to the state employees (including elected state officials) described above who reside in the corporation's approved service area, that the corporation enroll the lesser of at least 500 or at least 5% of those eligible employees. This requirement applies only to contracts entered into or renewed on or after July 16, 1991. The bill repeals this requirement. (R.C. 124.822--outright repealed by the bill.)

Health insuring corporation expansion of service area. Under current law, if the Superintendent of Insurance approves all or a portion of a service area expansion of a health insuring corporation into an additional county or counties, the Department must authorize the corporation, upon its meeting the Department's established participation criteria, to participate in the next open enrollment for state employees who reside in the expanded service area if, before the expansion of the service area, fewer than two health insuring corporations were available to state employees in the county or counties into which the corporation expanded. The bill eliminates this provision. (R.C. 124.92--outright repealed by the bill.)

State Employee Health Benefit Fund. Current law establishes in the state treasury the State Employee Health Benefit Fund for the sole purpose of enabling the Department to provide state employees with the health care *insurance coverage* described above. Amounts from the Fund may be used to pay direct and indirect costs that are attributable to consultants *or a third-party administrator* and that are necessary to administer the Fund's operation. The bill instead provides that amounts from the Fund may be used to pay direct and indirect costs that are attributable to consultants or third-party *administrators* and that are necessary to administer the Fund's operation. (R.C. 124.87(B).)

Group insurance and voluntary supplemental benefit plans. Current law authorizes an employee *of the state* or of a political subdivision or district of the state to authorize in writing the deduction from the employee's salary or wages of the premium or portion of a premium the employee agrees to pay to an insurer authorized to do business in Ohio for life, endowment, health, accident, or health and accident insurance, annuities, or hospitalization insurance, or a salary savings plan, provided that, in the case of the types of insurance mentioned above, they are offered as *group insurance* and at least 10% of the employees of a political subdivision or of any department, agency, bureau, district, commission, or board voluntarily elect to participate in that group insurance (R.C. 3917.04(A)).

The bill continues these provisions as they apply to employees of political subdivisions or districts of the state, but provides that they no longer apply to employees paid by warrant of the Director of Budget and Management (R.C. 3917.04(A)).

The bill also specifies that the Department of Administrative Services only may offer employees paid by warrant of the Director of Budget and Management *voluntary supplemental benefit plans* that are selected through a state-administered request for proposals process. If an employee authorizes the Director of Administrative Services, in writing, to deduct the premium or a portion of the premium agreed to be paid by the employee to a voluntary supplemental benefit plan provider from the employee's salary or wages, the Director may deduct this amount from the employee's salary or wages and pay it to the provider. Only those employees enrolled in a voluntary supplemental benefit plan on or before the bill's effective date may continue to participate in a plan that was not selected through a state-administered request for proposals process. (R.C. 3917.04(B)(1).)

Finally, under the bill, the Director of Budget and Management may issue warrants covering salary or wage deductions that have been authorized by employees paid by warrant of the Director in favor of a voluntary supplemental benefit plan provider in the amount authorized by those employees. (R.C. 3917.04(B)(2).)

Military pay differential

(R.C. 5923.05)

Permanent public employees who are employed by a state agency and who are members of the Ohio organized militia or members of other reserve components of the United States Armed Forces (including the Ohio National Guard) are entitled to a leave of absence without loss of pay *for up to one month* each calendar year while serving in the uniformed services. In addition, permanent public employees who are employed by a state agency, who are entitled to the latter leave of absence, and who are called or ordered to the uniformed services *for longer than a month* pursuant to an executive order of the President of the United States, an act of Congress, or an order of the Governor to the Ohio National Guard to perform training or specified duty (R.C. 5919.29) are entitled to a leave of absence for the designated period and to be paid during each monthly period of that leave of absence the difference between their permanent public employee gross monthly wage or salary and the sum of their military pay and allowances.

The bill extends the pay differential provision for permanent public employees who are employed by state agencies to such employees who are ordered to duty for longer than a month by a proclamation of the Governor *to aid civil authorities* in executing Ohio laws, suppressing insurrection, repelling invasion, acting in a disaster situation, or promoting the health, safety, and welfare of Ohio citizens (R.C. 5923.21).