

Legislative Analysis



PUBLIC SCHOOL COLLECTIVE BARGAINING

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4219 as introduced
Sponsor: Rep. Fred Miller
Committee: Labor

First Analysis (5-22-09)

BRIEF SUMMARY: The bill would allow public school employers and employees to collectively bargain whether or not to contract for non-instructional services.

FISCAL IMPACT: There would be no significant fiscal impact on the Department of Education or the Department of Energy, Labor and Economic Growth, including its Bureau of Employment Relations. Any fiscal impact to local districts would be indeterminate and would vary by district.

THE APPARENT PROBLEM:

Since 1994, the Public Employee Relations Act has prohibited public school employees from bargaining on the issue of outsourcing non-instructional jobs to private, for-profit corporations. See *BACKGROUND INFORMATION*.

Under the current law, public employees are prohibited from bargaining over the impact of a local school board's decision to outsource jobs they are performing. Further, they are not allowed to discuss the reasons the school district is seeking to outsource. Consequently non-instructional public school employees cannot propose solutions to a school district's financial problems that would reduce costs, including changes to their own contracts if they are willing to alter them in order to preserve their jobs.

Legislation has been proposed to repeal this provision of the law.

THE CONTENT OF THE BILL:

The bill would amend the Public Employee Relations Act (Public Act 336 of 1947). That act, among other things, lists the subjects that are not to be included in collective bargaining between a public school employer and an employee bargaining representative and that are considered to be within the sole authority of the public school employer to decide. One of those prohibited subjects is:

The decision whether or not to contract with a third party for one or more non-instructional support services; or the procedures for obtaining the contract; or the identity of the third party; or the impact of the contract on individual employees or the bargaining unit.

House Bill 4219 would strike that language, thus presumably allowing such contracting decisions to be part of the school collective bargaining process.

MCL 423.215

BACKGROUND INFORMATION:

Currently, the Public Employee Relations Act explicitly prohibits collective bargaining between a public school employer and employees about nine issues: (1) the policyholder of an employee group insurance benefit; (2) the school year starting date and the amount of pupil contact time; (3) the composition of site-based decision making bodies and school improvement committees; (4) the decision of whether to provide inter-district or intra-district open enrollment; (5) the decision to act as an authorizing body for charter schools; (6) the decision to contract with a third party for one or more non-instructional support services as well as the procedures for obtaining the contract, the identity of the third party, and the impact of the contract on employees or the bargaining unit; (7) the use of volunteers in providing services; (8) decisions concerning the use of experimental or pilot programs and technology; and (9) any compensation or additional work assignment intended to reimburse an employee for any monetary penalty imposed under the act.

As mentioned above, House Bill 4219 would eliminate number 6, above regarding non-instructional support services. The bill also would revise number 3 above, to eliminate from the list of prohibited topics *the composition of site-based decision making bodies* but retain as a prohibition the composition of school improvement committees.

ARGUMENTS:

For:

Currently, the non-instructional staff that works in schools cannot bid to supply services for which school district officials may otherwise outsource. This bill would repeal that prohibition. Proponents of this legislation argue that employees in a school district ought to have the right to sit down and bargain for their jobs. Currently the law prohibits them from doing so. Consequently, a school district's administrators and school board can unilaterally decide to privatize these employees' work, often eliminating (or in some cases lowering the payment for) their jobs.

Employees such as maintenance personnel, cafeteria staff, and bus drivers have a vested interest in their local schools—often knowing the students who enroll on a first-name basis. As public employees they are accountable for their work in a way that private employees are not. That trust and reciprocal responsibility enable public employees to guide and counsel students, as well as to do their particular jobs. Because these employees have a vested interest in their schools, years of valuable work experience, and first-hand knowledge of the students, they should be treated as partners in the collective bargaining process.

Proponents of the bill also point out that it is just plain wrong to argue that outsourcing is the only way to save money. Indeed, some decisions to privatize school services have been reversed by local boards of education. These local boards cancel their private contracts when they discover privatization can waste financial resources due to a continual turnover of employees, and persistent absenteeism among privately contracted workers. For example, a spokesperson of unionized employees working in the Flint Public Schools reported that the board reversed their private contract to provide bus transportation in the district. After four years, the board members discovered turnover was too great, and costs were too high. Overall, proponents say the bill could actually save school districts money, because unions would have the opportunity to dispute the promises made by for-profit companies vying for their work.

Against:

Opponents of this legislation argue that local boards of education should decide for themselves if money can be saved by turning to privatization. They argue that the current prohibition works. For example, during testimony in the last legislative session, a spokesperson for the Lake Fenton Public Schools, a district of 1,700 students, explained that the school district uses two different private firms. One firm is saving the district money, while the second firm is costing as much money as when public employees were doing the work. Yet a third privatization effort at Lake Fenton was not successful, so it was terminated by the board of education, and public school employees were re-hired. Generally, school officials note, privatization is working, and the ground-rules should not be altered.

Against:

Some opponents of the bill in its current form argue that the bill should be amended to narrow its impact. They say that the prohibition should continue. However, they argue that if contractual services are to be obtained by competitive bidding, and public school employees have been performing those services, then those public employees should be offered an opportunity to submit a bid.

POSITIONS:

The Michigan Education Association supports the bill. (5-13-09)

The American Federation of Teachers - Michigan supports the bill. (5-13-09)

Service Employees International Union (SEIU) supports the bill. (5-13-09)

The Michigan Association of School Psychologists supports the bill. (5-13-09)

The Michigan Association of School Social Workers supports the bill. (5-13-09)

International Union of Operating Engineers (IUOE) 547 supports the bill. (5-13-09)

AFSCME-Local 1815 - WCS supports the bill. (5-13-09)

The National Association of Social Workers - Michigan Chapter supports the bill. (5-13-09)

The International Union - UAW supports the bill. (5-13-09)

The Michigan AFL-CIO supports the bill. (5-13-09)

Public School Supports Staff Employees of Sterling Heights support the bill. (5-20-09)

AFSCME - Council 25 supports the bill. (5-20-09)

AFSCME - Lansing supports the bill. (5-20-09)

The Michigan Association of School Boards opposes the bill. (5-13-09)

The Michigan Elementary and Middle School Principals oppose the bill. (5-13-09)

The Michigan Association of School Administrators opposes the bill. (5-13-09)

The National Federal of Independent Businesses opposes the bill. (5-13-09)

The Michigan Chamber of Commerce opposes the bill. (5-13-09)

Oakland Schools opposes the bill. (5-20-09)

Wayne Regional Education Services Agency (RESA) opposes the bill. (5-20-09)

Michigan Small and Rural Schools opposes the bill. (5-20-09)

Van Buren Legislative Consortium opposes the bill. (5-20-09)

Legislative Analyst: J. Hunault
Fiscal Analyst: Mary Ann Cleary
Bethany Wicksall

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.