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Majority Whip
7th Ohio Senate District

**Senate Insurance, Commerce and Labor Committee
Senator Bacon, Chairman
February 8, 2011
Senator Shannon Jones
Senate Bill 5**

Good afternoon Chairman Bacon, Vice Chairman Faber, Ranking Member Schiavoni and members of the committee.

Thank you for the opportunity to appear today and present sponsor testimony for Senate Bill 5.

Over a year ago, I was asked to serve on the Budget Planning and Management Commission established in HB 1 of the last general assembly. At that time, there was universal recognition that the world had changed. Families and businesses acknowledged this new world and restructured and resized to deal with declining revenues.

So if the world has been fundamentally altered, certainly it stands to reason that government must adjust in recognition of this new reality. To do nothing to respond to this dramatically changed landscape would be irresponsible and could lead to even bigger problems down the road.

Thus while listening to many people in the course of my work with the budget commission and reading about the subject matter, it became clear to me that reforms were needed to our collective bargaining law -- a law that was enacted in 1983 and has largely been unchanged for the last 27 years.

Yes we must also deal with new ways to create jobs, lessen the regulatory burden, reform Ohio's pension systems and a host of other issues. I look forward to working with the Governor and my colleagues on those important issues too. But I decided to focus on collective bargaining, which is merely one piece -- albeit an important one -- of the complex puzzle.

Let me be clear: I am not doing this to punish employees who serve the people of this state day after day. Most of them are extremely dedicated people trying to serve their fellow Ohioans. I am not doing this to punish unions or serve as some sort of political payback or to dry up the source of money for campaigns as has been suggested by some. I am not doing this because I think it's the magic bullet that will solve Ohio's immediate budget problems. It will not... although I do think it will make a significant difference in future budgets -- which is an absolute necessity.

Simply put, I am doing this because I want to give government the flexibility and control over its workforce so that it can continue to provide taxpayers with the services needed in a way that is sustainable over time.

With that said, please allow me to summarize the main provisions of the bill:

Increase Transparency.

Transparency is of paramount importance in this discussion. Without transparency, there is no way for citizens to be “front and center” in the negotiations and truly understand the services for which they are paying to receive, the costs associated with the services they desire, the salary of those employees being paid, and how that pay is established. I believe that making this information readily available to taxpayers in a clear format is critically important – both to ensure fair negotiations as well as to preserve the public’s trust. Consider this...we have a system where the public is not given the opportunity to understand. I’m often asked by my constituents, “Why is my local school board telling me that my teachers are getting raises, while the teachers tell me they are not?” When a system has been created allowing both statements to be technically true, it is no surprise that taxpayers are confused. With the goal of increasing transparency throughout the process, the bill does the following:

- Requires a public employer to publish a report on the employer’s website describing provisions of a CBA that affect *any* compensation- including wages, food and clothing allowances, length of service payments, and insurance coverage. Regardless of what the item of value is called, it will all be plainly reported so the public can understand the true costs associated with employees.
- Requires the public employer and SERB to publish parties’ offers on their websites before and after fact-finding is complete. These provisions will keep the public informed throughout the process and serve as a continual check on the parties to ensure fair and speedy negotiations.
- Requires mediators to consider compensation paid to employees who are not members of the bargaining unit or who are members of the bargaining unit but not of the exclusive representative. This provision will ensure a more accurate reflection of the aggregate employee salary and benefits of the public employer.
- Requires the parties to consider the financial status of the public employer at the time of the negotiations (in determining the ability to pay) - not any potential future increase such as the passage of a levy or bond issue.
- Requires a fact-finding panel to include a report explaining how the guidelines listed in statute factored into its recommendations.

Eliminate State Employee Collective Bargaining.

Senate Bill 5 eliminates collective bargaining for state employees and employees of state institutions of higher education. Existing CBAs covering those employees will expire according to their terms. This will provide the state with some certainty in drafting future budgets as well as provide the flexibility for management to focus on its mission to provide quality services to the taxpayers in the most efficient manner possible. Under the bill, pay for state employees is based on merit, and statutory salary schedules and step increases are eliminated.

Local Government Collective Bargaining.

Senate Bill 5 does not eliminate collective bargaining for local governmental entities, but makes significant reforms that will make a positive difference in the delivery of services. While the bill does not currently eliminate collective bargaining for local governments, it remains open to doing so or perhaps providing local government entities with an opt-out provision.

Senate Bill 5 allows a public employer in fiscal emergency to serve notice to terminate, modify, or negotiate a CBA. This provision is intended to give the employer more flexibility to adjust payroll and staffing levels while ensuring that core services are provided to the public.

S.B. 5 also removes the requirement that deadlocked safety forces submit issues to final offer settlement (often referred to as 'binding arbitration'). Current law requires the public employer to take "whatever actions are necessary" to implement a final offer settlement, which makes it difficult for local governments to manage their budgets because they have no control over personnel costs. Under the bill, if the parties cannot reach agreement, the provisions of the last CBA in effect will continue for one year, or the public employer may implement any of the recommendations of the fact-finding panel while bargaining continues.

In addition, for employees who have the right to strike, the bill allows a public employer to implement any fact-finding recommendation approved by the employer's legislative body if the employee organization rejects the recommendations. Bargaining may continue, and the employees continue to have the right to strike if the parties are not able to reach agreement.

National Labor Relations Act. The following changes proposed in S.B. 5 make Ohio law consistent with provisions in the National Labor Relations Act, which governs private sector collective bargaining:

- The bill allows a public employer to hire permanent replacement workers during a strike. Current Ohio law is silent on the hiring of replacement workers.
- Under the bill, only matters pertaining to wages, hours, or terms and conditions of employment are mandatory subjects of bargaining. Under current law, once a subject is included in a contract, it becomes a mandatory subject of bargaining in the future (thus raising the "floor" in future negotiations).
- The bill allows an employer to freely communicate views or opinions to employees as long as the views don't contain a threat or promise a benefit.

Bargaining Timeline. The bill extends some bargaining deadlines so that they are more realistic and defines "impasse" as a failure to achieve agreement in the course of good faith bargaining for 90 days. Defining "impasse" ensures that bargaining doesn't continue indefinitely.

Layoff Procedures. Under current law, the order of layoffs is based primarily on length of service. Under S.B. 5, length of service cannot be the only factor used to determine the order of layoffs. Efficiency, appointment type and other similar factors must also be considered. For teachers, a board of education must consider the relative quality of performance in determining the order of reductions.

Prohibit Pension Pickups. S.B. 5 prohibits an employer from paying an employee's required pension contribution. In effect, the bill also prohibits "pickups-on-the-pickup," a current practice where a school district pays an employee's required contribution, and then considers it extra salary for pension purposes, which allows the employee to retire with a higher pension than the employee otherwise would have earned.

Health Care Benefits Healthcare plan terms and plan design are not subject to collective bargaining resulting in uniform benefit packages negotiated on behalf of all employees. The bill also requires public employees to pay at least 20% of the healthcare premium.

Teacher Contracts & Benefits. The bill makes the following changes to teachers' contracts and benefits:

- S.B. 5 eliminates new continuing contracts after the bill's effective date.
- The bill eliminates teacher leave policies from statute and instead requires local boards of education to establish general leave policies for employees who are not covered by a CBA.
- The bill abolishes the School Employee Health Care Board and instead permits boards of education to govern health care benefits for employees.

I look forward to the hearings we are going to have on the bill and the vigorous debate the testimony will spark. I will listen carefully to the ideas of those who agree with me and those who do not as well as to the thoughts of the administration and, of course, my colleagues here in the Senate and the House.

I would be happy to answer any questions that committee members have at this time.