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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO EDUCATION -- TEACHER COLLECTIVE BARGAINING

Introduced By: Representatives Serpa, Silva, Vaudreuil, Handy, and Williamson

Date Introduced: April 06, 2010

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-2-5.1, 16-2-9 and 16-2-21.6 of the General Laws in Chapter 16-
2 2 entitled "School Committees and Superintendents" are hereby amended to read as follows:

3 **16-2-5.1. Professional development.** -- (a) The Rhode Island College in cooperation
4 with the Rhode Island association of school committees shall develop a professional development
5 educational program for Rhode Island school committees, that will include instruction in labor
6 and labor relations, ~~negotiating collective bargaining agreements~~, employee contract analysis,
7 school finance, school law; duties and responsibilities of the committee, duties and
8 responsibilities of the superintendent, ethics, the requirements of the open meetings law, student
9 achievement, strategic planning, educational standards, student assessment, school accountability,
10 data interpretation and analysis, collaboration building, advocacy, annual performance evaluation
11 of the school superintendent and the local school committee, and any other topics as the Rhode
12 Island association of school committees may deem to be necessary.

13 (b) In conformity with section 16-60-4(15), the board of regents for elementary and
14 secondary education shall approve the professional development program and create a process for
15 recognizing school committee members that successfully complete the program in part or in
16 whole.

17 **16-2-9. General powers and duties of school committees.** -- (a) The entire care,
18 control, and management of all public school interests of the several cities and towns shall be
19 vested in the school committees of the several cities and towns. School committees shall have, in

1 addition to those enumerated in this title, the following powers and duties:

2 (1) To identify educational needs in the community.

3 (2) To develop education policies to meet the needs of the community.

4 (3) To provide for and assure the implementation of federal and state laws, the
5 regulations of the board of regents for elementary and secondary education, and of local school
6 policies, programs, and directives.

7 (4) To provide for the evaluation of the performance of the school system.

8 (5) To have responsibility for the care and control of local schools.

9 (6) To have overall policy responsibility for the employment and discipline of school
10 department personnel.

11 (7) To approve a master plan defining goals and objectives of the school system. These
12 goals and objectives shall be expressed in terms of what men and women should know and be
13 able to do as a result of their educational experience. The committee shall periodically evaluate
14 the efforts and results of education in light of these objectives.

15 (8) To provide for the location, care, control, and management of school facilities and
16 equipment.

17 (9) To adopt a school budget to submit to the local appropriating authority.

18 (10) To adopt any changes in the school budget during the course of the school year.

19 (11) To approve expenditures in the absence of a budget, consistent with state law.

20 (12) To employ a superintendent of schools and assign any compensation and other
21 terms and conditions as the school committee and superintendent shall agree, provided that in no
22 event shall the term of employment of the superintendent exceed three (3) years. Nothing
23 contained in this chapter shall be construed as invalidating or impairing a contract of a school
24 committee with a school superintendent in force on May 12, 1978.

25 (13) To give advice and consent on the appointment by the superintendent of all school
26 department personnel.

27 (14) To establish minimum standards for personnel, to adopt personnel policies, and to
28 approve a table of organization.

29 (15) To establish standards for the evaluation of personnel.

30 (16) To establish standards for conduct in the schools and for disciplinary actions.

31 (17) To hear appeals from disciplinary actions.

32 (18) To enter into contracts, [except collective bargaining agreements with school](#)
33 [teachers](#).

34 (19) To publish policy manuals which shall include all school committee policies.

1 (20) To establish policies governing curriculum, courses of instruction, and text books.

2 (21) To provide for transportation services which meet or exceed standards of the board
3 of regents for elementary and secondary education.

4 (22) To make any reports to the department of education as are required by the board of
5 regents for elementary and secondary education.

6 (23) To delegate, consistent with law, any responsibilities to the superintendent as the
7 committee may deem appropriate.

8 (24) To address the health and wellness of students and employees.

9 (25) To establish a subcommittee of the school board or committee to decrease obesity
10 and address school health and wellness policies for students and employees consistent with
11 section 16-21-28.

12 (b) Nothing in this section shall be deemed to limit or interfere with the rights of teachers
13 and other school employees to collectively bargain pursuant to chapters 9.3 and 9.4 of title 28 or
14 to allow any school committee to abrogate any agreement reached by collective bargaining.

15 (c) The school committees of each city, town, or regional school district shall have the
16 power to bind their successors and successor committees by entering into contracts of
17 employment in the exercise of their governmental functions, [except teacher collective bargaining](#)
18 [agreements](#).

19 (d) Notwithstanding any provisions of the general laws to the contrary, the requirement
20 defined in subsections (d) through (f) of this section shall apply. The school committee of each
21 school district shall be responsible for maintaining a school budget which does not result in a
22 debt.

23 (e) The school committee shall, within thirty (30) days after the close of the first and
24 second quarters of the state's fiscal year, adopt a budget as may be necessary to enable it to
25 operate without incurring a debt, as described in subsection (d).

26 (f) In the event that any obligation, encumbrance, or expenditure by a superintendent of
27 schools or a school committee is in excess of the amount budgeted or that any revenue is less than
28 the amount budgeted, the school committee shall within five (5) working days of its discovery of
29 potential or actual over expenditure or revenue deficiency submit a written statement of the
30 amount of and cause for the over obligation or over expenditure or revenue deficiency to the city
31 or town council president and any other person who by local charter or statute serves as the city
32 or town's executive officer; the statement shall further include a statement of the school
33 committee's plan for corrective actions necessary to meet the requirements of subsection (d). The
34 plan shall be approved by the auditor general.

1 (g) Notwithstanding any other provision of law, whether of general or specific
2 application, and notwithstanding any contrary provision of any city or town charter or ordinance,
3 the elected school committee of any city, town and regional school district shall be, and is hereby
4 authorized to retain the services of such independent legal counsel as it may deem necessary and
5 convenient. Any counsel so retained shall be compensated out of funds duly appropriated to the
6 school committee, and in no event shall the independent counsel be deemed to be an employee of
7 the pertinent city or town for any purpose.

8 **16-2-21.6. Collective bargaining fiscal impact statements.** -- (a) Prior to executing any
9 collective bargaining agreement between a [regional](#) school committees [or appropriating](#)
10 [authorities](#) and representatives of teachers and/or other school employees, the [regional](#) school
11 committees [or appropriating authorities](#) shall prepare or cause to be prepared a collective
12 bargaining fiscal impact statement. These statements shall set forth, in dollar amounts, estimates
13 of the fiscal impact, during the term of the proposed agreement. No comment or opinion relative
14 to the merits of the terms of the contract shall be included, except that technical or mechanical
15 errors or defects may be noted.

16 (b) The fiscal impact statement and the awarded contract shall be publicized and shall be
17 made immediately available upon ratification of the contract.

18 SECTION 2. Sections 28-9.3-1, 28-9.3-2, 28-9.3-3, 28-9.3-4, 28-9.3-5, 28-9.3-6, 28-9.3-
19 8, 28-9.3-9, 28-9.3-10, 28-9.3-11, 28-9.3-12 and 28-9.3-13 of the General Laws in Chapter 28-9.3
20 entitled "Certified School Teachers' Arbitration" are hereby amended to read as follows:

21 **28-9.3-1. Declaration of policy -- Purpose.** -- (a) In pursuance of the duty imposed upon
22 it by the constitution to promote public schools and to adopt all means necessary and proper to
23 secure to the people the advantages and opportunities of education, the general assembly declares
24 that it recognizes teaching as a profession which requires special educational qualifications and
25 that to achieve high quality education it is indispensable that good relations exist between
26 teaching personnel and school committees.

27 (b) It is declared to be the public policy of this state to accord to certified public school
28 teachers the right to organize, to be represented, to negotiate professionally, and to bargain on a
29 collective basis with [regional](#) school committees [or appropriating authorities](#) covering hours,
30 salary, working conditions, and other terms of professional employment; provided, that nothing
31 contained in this chapter shall be construed to accord to certified public school teachers the right
32 to strike.

33 **28-9.3-2. Right to organize and bargain collectively.** -- (a) The certified teachers in the
34 public school system in any city, town, or regional school district have the right to negotiate

1 professionally and to bargain collectively with their respective [regional](#) school committees [or](#)
2 [appropriating authorities](#) and to be represented by an association or labor organization in the
3 negotiation or collective bargaining concerning hours, salary, working conditions, and all other
4 terms and conditions of professional employment.

5 (b) For purposes of this chapter, "certified teachers" means certified teaching personnel
6 employed in the public school systems in the state of Rhode Island engaged in teaching duties,
7 including support personnel whose positions require a professional certificate issued by the state
8 department of education and personnel licensed by the department of health; or other non-
9 administrative professional employees.

10 (c) Superintendents, assistant superintendents, principals, and assistant principals, and
11 other supervisors above the rank of assistant principal, are excluded from the provisions of this
12 chapter.

13 **28-9.3-3. Recognition of bargaining agent.** -- The association or labor organization
14 selected by the certified public school teachers in the public school system in any city, town, or
15 regional school district shall be recognized by the [regional](#) school committees [or](#) [appropriating](#)
16 [authorities](#) of the city, town or district as the sole and exclusive negotiating or bargaining agent
17 for all of the public school teachers of the city, town, or regional school district unless and until
18 recognition of the association or labor organization is withdrawn or changed by vote of the
19 certified public school teachers after a duly conducted election, held pursuant to the provisions of
20 this chapter. An association or labor organization or the [regional](#) school committees [or](#)
21 [appropriating authorities](#) may designate any person or persons to negotiate or bargain in its
22 behalf.

23 **28-9.3-4. Obligation to bargain.** -- It shall be the obligation of the [regional](#) school
24 committees [or](#) [appropriating authorities](#) to meet and confer in good faith with the representative
25 or representatives of the negotiating or bargaining agent within ten (10) days after receipt of
26 written notice from the agent of the request for a meeting for negotiating or collective bargaining
27 purposes. This obligation includes the duty to cause any agreement resulting from negotiations or
28 bargaining to be reduced to a written contract; provided, that no contract shall exceed the term of
29 three (3) years. An unfair labor practice charge may be complained of by either the bargaining
30 agent or the [regional](#) school committees [or](#) [appropriating authorities](#) to the state labor relations
31 board which shall deal with the complaint in the manner provided in chapter 7 of this title.

32 **28-9.3-5. Determination of negotiating agent -- Elections.** -- (a) The state labor
33 relations board, upon the written petition for an election signed by not less than twenty per cent
34 (20%) of the certified public school teachers of the city, town, or regional school district,

1 indicating their desire to be represented by a particular association or organization or to change or
2 withdraw recognition, shall call and hold an election at which all certified public school teachers
3 shall be entitled to vote.

4 (b) The association or organization selected by a majority of the certified public school
5 teachers voting in the election shall be certified by the state labor relations board as the exclusive
6 negotiating or bargaining representative of the certified public school teachers of the city, town,
7 or regional school district in any matter within the provisions of this chapter.

8 (c) Upon written petition to intervene in the election signed by not less than fifteen per
9 cent (15%) of the certified public school teachers indicating their desire to be represented by a
10 different or competing association or organization, the name of the different or competing
11 association or organization shall be placed on the same ballot.

12 (d) If the majority of those voting desire no representation, no association nor labor
13 organization shall be recognized by the [regional](#) school committees [or appropriating authorities](#) as
14 authorized to negotiate or bargain in behalf of its certified public school teachers, and in all
15 elections there shall be provided on the ballot an appropriate designation for such a choice.

16 **28-9.3-6. Supervision of elections.** -- The state labor relations board shall prescribe the
17 method of petitioning for an election, the manner, place, and time of conducting the election, and
18 shall supervise all elections to insure against interference, restraint, discrimination, or coercion
19 from any source. Complaints of interference, restraint, discrimination, or coercion shall be heard
20 and dealt with by the labor relations board as provided in chapter 7 of this title. All unfair labor
21 practices enumerated in section 28-7-13 are declared to be unfair labor practices for a [regional](#)
22 school committees [or appropriating authorities](#).

23 **28-9.3-8. Request for negotiation or bargaining.** -- Whenever salary or other matters
24 requiring appropriation of money by any city, town, or regional school district are to be included
25 as a matter of negotiation or collective bargaining conducted under the provisions of this chapter,
26 the negotiating or bargaining agent must first serve written notice of request for negotiating or
27 collective bargaining on the [regional](#) school committees [or appropriating authorities](#) at least one
28 hundred forty (140) days before the last day on which money can be appropriated by the city or
29 town to cover the first year of the contract period which is the subject of the negotiating or
30 bargaining procedure, and the time limit shall be strictly adhered to and shall not be waived. A
31 copy of the written notice of request for negotiating or collective bargaining shall be sent to the
32 director of labor and training.

33 **28-9.3-9. Unresolved issues submitted to mediation or arbitration.** -- (a) In the event
34 that the negotiating or bargaining agent and the [regional](#) school committees [or appropriating](#)

1 [authorities](#) are unable, within thirty (30) days from and including the date of their first meeting, to
2 reach an agreement on a contract, either of them may request mediation and conciliation upon any
3 and all unresolved issues by the director of labor and training or from any other source. If
4 mediation and conciliation fail or are not requested, at any time after the thirty (30) days, either
5 party may request that any and all unresolved issues shall be submitted to arbitration by sending
6 the request by certified mail postage prepaid to the other party, setting forth the issues to be
7 arbitrated.

8 (b) In the event that the negotiating or bargaining agent and the [regional](#) school
9 committees [or appropriating authorities](#) are unable to reach an agreement on a contract thirty (30)
10 days before the last day on which money can be appropriated by the city and town to cover the
11 first year of the contract period, any and all unresolved issues shall be submitted to the director of
12 labor and training for compulsory mediation until the date upon which the money is scheduled to
13 be appropriated. The director of labor and training or his or her designee may waive this
14 requirement upon the mutual agreement of the parties.

15 (c) In the event that the negotiating or bargaining agent and the [regional](#) school
16 committees [or appropriating authorities](#) are unable within ten (10) days of the scheduled close of
17 school in June of the last year of the contract in effect to reach an agreement on a contract, any
18 and all unresolved issues shall be submitted to the director of labor and training for compulsory
19 mediation.

20 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
21 the director of labor and training shall select a mediator from a panel previously established by
22 the director comprised of persons knowledgeable in the field of labor management relations to
23 mediate the dispute. The department of labor and training is empowered to compel the attendance
24 of all the parties to any and all meetings it deems necessary until the dispute is resolved.

25 (e) For any mediation pertaining to unresolved issues that are submitted to compulsory
26 mediation between the negotiating or bargaining agent and the [regional](#) school committees [or](#)
27 [appropriating authorities](#), pursuant to the provisions of this section, the state shall pay up to five
28 thousand dollars (\$5,000) of the cost of the mediation expenses. Any costs above five thousand
29 dollars (\$5,000) shall be shared equally between the bargaining unit and the school committee.

30 **28-9.3-10. Arbitration board -- Composition.** -- (a) Within seven (7) days after
31 arbitration has been requested as provided in section 28-9.3-9, the negotiating or bargaining agent
32 and the [regional](#) school committees [or appropriating authorities](#) shall each select and name one
33 arbitrator and shall immediately notify each other in writing of the name and address of the
34 person so selected. The two (2) arbitrators selected and named shall, within ten (10) days from

1 and after their selection, agree upon and select and name a third arbitrator. If within the ten (10)
2 days the arbitrators are unable to agree upon the selection of a third arbitrator, the third arbitrator
3 shall be selected in accordance with the rules and procedure of the American Arbitration
4 Association.

5 (b) If the negotiating or bargaining agent agrees with the [regional](#) school committees [or](#)
6 [appropriating authorities](#) to a different method of selecting arbitrators, or to a lesser or greater
7 number of arbitrators, or to any particular arbitrator, or if they agree to have the board of regents
8 for elementary and secondary education designate the arbitrator or arbitrators to conduct the
9 arbitration, the agreement shall govern the selection of arbitrators. However, if the board of
10 regents for elementary and secondary education is unwilling or fails to designate the arbitrator or
11 arbitrators, an alternative method of selection shall be used.

12 (c) The third arbitrator, whether selected as a result of agreement between the two (2)
13 previously selected arbitrators, or selected under the rules of the American Arbitration
14 Association, or by the board of regents for elementary and secondary education, or by any other
15 method, shall act as chairperson.

16 **28-9.3-11. Hearings.** -- (a) The arbitrators shall call a hearing to be held within ten (10)
17 days after their appointment and shall give at least seven (7) days notice in writing to the
18 negotiating or bargaining agent and the [regional](#) school committees [or appropriating authorities](#) of
19 the time and place of the hearing. The hearing shall be informal, and the rules of evidence
20 prevailing in judicial proceedings shall not be binding. Any documentary evidence and other data
21 deemed relevant by the arbitrators may be received in evidence.

22 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
23 the attendance and testimony of witnesses, and the production of books, records, and other
24 evidence relative or pertinent to the issues presented to them for determination.

25 (c) Both the negotiating or bargaining agent and the [regional](#) school committees [or](#)
26 [appropriating authorities](#) shall have the right to be represented at any hearing before the
27 arbitrators by counsel of their own choosing.

28 (d) The hearing conducted by the arbitrators shall be concluded within twenty (20) days
29 of the time of commencement, and within ten (10) days after the conclusion of the hearings, the
30 arbitrators shall make written findings and a written opinion upon the issues presented, a copy of
31 which shall be mailed or otherwise delivered to the negotiating or bargaining agent or its attorney
32 or other designated representative and the [regional](#) school committees [or appropriating](#)
33 [authorities](#).

34 **28-9.3-12. Appeal from decision.** -- The decision of the arbitrators shall be made public

1 and shall be binding on the certified public school teachers and their representative and the
2 [regional](#) school committees [or appropriating authorities](#) on all matters not involving the
3 expenditure of money; provided, that nothing contained in this section shall prevent the
4 representative of the certified public school teachers and the [regional](#) school committees [or](#)
5 [appropriating authorities](#) from mutually agreeing to submit all unresolved issues to binding
6 arbitration pursuant to the procedures set forth in sections 28-9.3-10 -- 28-9.3-12. In that case the
7 decision of the arbitrators shall be final and binding on all matters so submitted, including those
8 involving the expenditure of money, and cannot be appealed except on the ground that the
9 decision was procured by fraud or that it violates the law, in which case appeals shall be to the
10 superior court. The school committee shall within three (3) days after it receives the decision send
11 a true copy of the decision by certified or registered mail postage prepaid to the department or
12 agency which appropriates money for the operation of the schools in the city, town, or regional
13 school district involved, if decision involves the expenditure of money.

14 **28-9.3-13. Fees and expenses of arbitration.** -- Fees and necessary expenses of
15 arbitration shall be borne equally by the negotiating or bargaining agent and the [regional](#) school
16 committees [or appropriating authorities](#).

17 SECTION 3. This act shall take effect upon passage, but shall apply to all teacher
18 collective bargaining agreements effective on or after January 1, 2011.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- TEACHER COLLECTIVE BARGAINING

1 This act would authorize city and town appropriating authorities to negotiate teacher
2 collective bargaining agreements in place of school committees. Regional school districts are
3 exempted from this change.

4 This act would take effect upon passage, but would apply to all teacher collective
5 bargaining agreements effective on or after January 1, 2011.

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